IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.   :   10/771,805   Confirmation No.:   3337
Applicant   :   CLAY FISHER
Title   :   METHODS AND APPARATUSES FOR SYNCHRONIZING
                    AND TRACKING CONTENT
Filed   :   02/04/2004
TC/A.U.   :   2161
Examiner   :   CHELCIE L. DAYE
Docket No.   :   SON5180.84A
Cust. No.   :   36813

Mail Stop APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22213-1450

APPEAL BRIEF

Dear Sir:

The following appeal brief is submitted pursuant to the Notice of Appeal filed on 06/30/2010 in the above-identified application. Presented herewith is the Appeal Brief of the Applicants, as well as the requisite fee set forth in 37 CFR 1.17(f).

REAL PARTY IN INTEREST

The real party in interest is: "Sony Corporation", 7-35 Kitashinagawa 6-chome Shinagawa-ku, Tokyo, Japan; and "Sony Electronics Inc." 1 Sony Drive, Park Ridge, NJ 07656.

RELATED APPEALS AND INTERFERENCES

There are no related Appeals and Interferences at this time.

STATUS OF CLAIMS

Claims 1-10 and 17-28 stand rejected, Applicant has not amended or canceled any of the claims within the present appeal.

Claims 11-16 were previously canceled.

All pending claims (Claims 1-10 and 17-28) are being appealed.

STATUS OF AMENDMENTS

The claims now pending have not been modified subsequent to final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

Referring to the specification and drawings, the invention is defined in the claims involved in the appeal.

Claim 1. Independent Claim 1 is directed to a method of tracking and synchronizing content across multiple devices, including a plurality of client devices and a server. The elements of Claim 1 are supported by the specification, drawings and prior claims as follows.

Support for "*receiving new content for which no record exists, associated with a request submitted by a user*" is found in the drawings shown as element 310 in FIG. 3; as the flowchart of FIG. 6; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content*" is found in the drawings shown in FIG. 6 in particular block 630; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*performing the request and creating a new content record corresponding to said new content*" is found in the drawings shown in FIG. 6, and in particular block 640; and found throughout the specification, including page 6, lines 18-23; page 7, lines 9-11, page 9, lines 16-20; page 14, lines 8-12; page 15, lines 4-11; and so forth, as well as original Claims 11 and 16.

Support for "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence*

of duplicate or related content which is available on the multiple devices" is found in the drawings shown in FIG. 6, in particular described for block 640; and found throughout the specification, including page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*wherein new content without an existing record is compared with existing content having a corresponding record, and if the new content is at least similar to existing content, then the records from the existing content are utilized in completing the fields of the new content*" is found in the drawings shown as element 640 in FIG. 6; and found throughout the specification, page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*updating the records of duplicate or related content with information about the new content associated with said new content record to synchronize all the content records*" is found in the drawings shown in FIG. 6, in particular block 660; and is found throughout the specification, including page 7, lines 9-11; page 9, line 21 through page 10, line 2; page 15, lines 14-18; and so forth, as well as original Claim 14-15.

Claim 2. Claim 2 depends from independent Claim 1, and is supported by the specification, drawings and prior claims as follows.

Support for "*receiving a copy, delete, or print request from a user corresponding to specific content within the existing content wherein duplicates of said specific content, or related to said specific content, are retained on a device across multiple devices configured for communicating with one another over a network*" is found in the drawings shown as element 710 in FIG. 7, element 810 in FIG. 8, element 910 in FIG. 9; and found throughout the specification, including page 2, lines 4-8; page 7, lines 1-8; page 9, lines 8-15; and so forth, as well as original Claims 6 and 23.

Support for "*reviewing a record associated with the specific content in response to the request and analyzing the associated record to determine what duplicate or related content is available across the multiple devices*" is found in the drawings shown

in FIG. 6 in particular block 630; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*transmitting a confirmation for the request in response to detecting the presence of any duplicate or related content*" is found in the drawings shown in FIG. 6 in particular block 630; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16

Support for "*performing the request in response to receiving the request and instructions from the user in responding to said confirmation*" is found in the drawings shown as element 550 in FIG. 5; as element 730 in FIG. 7; and found throughout the specification, including page 13 line 17 to page 14 line 7; and so forth, as well as original Claims 1-2, and 9-10.

Claim 3. Claim 3 depends from independent Claim 1, and is supported by the specification, drawings and prior claims as follows.

Support for "*receiving a copy, delete, or print request from a user corresponding to said specific content within the existing content wherein duplicates of said specific content, or related to said specific content, are retained on a device across multiple devices configured for communicating with one another over a network*" is found in the drawings shown as element 710 in FIG. 7, element 810 in FIG. 8, element 910 in FIG. 9; and found throughout the specification, including page 2, lines 4-8; page 7, lines 1-8; page 9, lines 8-15; and so forth, as well as original Claims 6 and 23.

Support for "*reviewing a record associated with the specific content in response to the request and analyzing the associated record to determine what duplicate or related content is available across the multiple devices*" is found in the drawings shown in FIG. 6 in particular block 630; and found throughout the specification, including page

7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*determining utilization of any duplicate or related content based on a pre-established preference and the type of request which was received*" is found in the drawings shown in FIG. 7, FIG. 8 and FIG. 9; and found throughout the specification, including page 9, lines 8-15; page 10, lines 3-19; page 14, lines 1-7; page 16, lines 2-9; and so forth.

Claim 4. Claim 4 depends from independent Claim 1, and is supported by the specification, drawings and prior claims as follows.

Support for "*transmitting a confirmation for the request in response to detecting the presence of any duplicate or related content*" is found in the drawings shown as element 540 in FIG. 5; and found throughout the specification, including page 2, lines 4-8; page 7, lines 1-8; page 13, lines 10-16; page 16, lines 2-9; and so forth, as well as original Claim 1, 9-10, 20, and 24.

Support for "*wherein said confirmation presents the user with options as to which content to use, based on resolution of the content, for performing said request based on the presence of duplicate content*" is found in the drawings shown as element 540 in FIG. 5; and found throughout the specification, including page 13, lines 10-22; page 14, lines 1-7; and so forth, as well as original Claims 2-3 and 20.

Claim 5. Claim 5 depends from independent Claim 1, and is supported by the specification, drawings and prior claims as follows.

Support for "*said new content includes one from the group of content items consisting of a photograph, music, a document, and a video*" is found in the drawings shown in FIG. 4; and found throughout the specification, including page 13, lines 10-16; page 14 line 13 through page 15 line 11; and so forth, as well as original Claims 5, 12 and 19.

Appl. No.:   10/771,805
Filing Date: 02/04/2004
Appealed: 06/30/2010
Appeal Brief Dated: 08/30/2010
Tech. Center: 2161

Claim 6. Claim 6 depends from independent Claim 1, and is supported by the specification, drawings and prior claims as follows.

Support for "*wherein each content record includes a field for indicating other content related to content associated with the content record*" is found in the drawings shown as element 440 in FIG. 4; and found throughout the specification, including page 1, lines 16-19; page 12, lines 8-11; page 15, lines 4-11; and so forth, as was part of original Claim 13.

Claim 7. Claim 7 depends from independent Claim 1, and is supported by the specification, drawings and prior claims as follows.

Support for "*storing the pre-established preference in a storage device*" is found in the drawings shown in FIG. 2; element 330 of FIG. 3; and found throughout the specification, including page 10, lines 12-15; page 11, lines 5-8; page 14, lines 1-7; and so forth, as well as original Claims 7-8, 11 and 16-17.

Claim 8. Claim 8 depends from independent Claim 1, and is supported by the specification, drawings and prior claims as follows.

Support for "*storing the new content record in a storage device*" is found in the drawings shown as element 330 in FIG. 3; element 650 in FIG. 6; and found throughout the specification, including page 7, lines 9-11; page 10, lines 12-15; and so forth, as well as original Claims 7-8 and 21-22.

Claim 9. Claim 9 depends from Claim 2 which depends from independent Claim 1, and is supported by the specification, drawings and prior claims as follows.

Support for "*confirmation is sought from the user for authorization for executing the request*" is found in the drawings shown as element 540 in FIG. 5; and found throughout the specification, including page 2, lines 4-8; page 7, lines 1-8; page 13,

lines 10-16; page 16, lines 2-9; and so forth, as well as original Claim 1, 9-10, 20, and 24.

Claim 10. Independent Claim 10 is directed to a system for tracking and synchronizing content across multiple devices, including a plurality of client devices and a server. The elements of Claim 1 are supported by the specification, drawings and prior claims as follows.

Support for "*means for receiving a request from a user to create a new content record for new content received from the user*" is found in the drawings shown as element 310 in FIG. 3; as the flowchart of FIG. 6; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*means for reviewing specific content within the new content of said new record in response to the request and comparing with duplicate or related content which is available across said multiple devices*" is found in the drawings shown in FIG. 6 in particular block 630; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*means for performing the request and creating a record corresponding to said new content*" is found in the drawings shown in FIG. 6, and in particular block 640; and found throughout the specification, including page 6, lines 18-23; page 7, lines 9-11, page 9, lines 16-20; page 14, lines 8-12; page 15, lines 4-11; and so forth, as well as original Claims 11 and 16.

Support for "*means for automatically completing fields within said new content record in response to information contained in the specific content as well as information about said duplicate or related content which is available across the multiple devices*" is found in the drawings shown in FIG. 6, in particular described for block 640; and found

throughout the specification, including page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*wherein new content without an existing record is compared with existing content having a corresponding record, and if the new content is at least similar to existing content, then the records from the existing content are utilized in completing the fields of the new content*" is found in the drawings shown as element 640 in FIG. 6; and found throughout the specification, page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*means for updating the records of duplicate or related content with information about the specific content associated with said new content record to synchronize the content records*" is found in the drawings shown in FIG. 6, in particular block 660; and is found throughout the specification, including page 7, lines 9-11; page 9, line 21 through page 10, line 2; page 15, lines 14-18; and so forth, as well as original Claim 14-15.

Claim 17. Independent Claim 17 is directed to a system for system for tracking and synchronizing content across multiple devices, including a plurality of client devices and a server. The elements of Claim 1 are supported by the specification, drawings and prior claims as follows.

Support for "*an interface module configured for receiving a request submitted by a user specifying new content submitted by the user*" is found in the drawings shown as block 115 in FIG. 1, block 340 in FIG. 3; FIG. 6 in particular block 630; and found throughout the specification, including page 7, lines 9-11; page 8, lines 1-2; page 8 line 22 to page 9 line 7; page 9 line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*said interface module is configured for communicating over a network between one or more client devices and a server device*" is found in the

drawings shown in FIG. 1 - 3 (block 115 in FIG. 1 and block 340 in FIG. 3); and found throughout the specification, including page 5, line 12 to page 6, line 17; and so forth.

Support for "*wherein existing content, which is a duplicate and/or related, to said new content are retained across multiple devices configured for communicating over the network*" is found in the drawings shown as block 110 in FIG. 1 and FIG. 2; as block 440 in FIG. 4; and found throughout the specification, including page 1, lines 16-22; page 12, lines 4-16; page 13, lines 10-16; page 15, lines 4-18; page 19, lines 3-10; and so forth.

Support for "*a review module configured for reviewing said new content and creating a new content record corresponding to said new content*" is found in the drawings shown as element 310 in FIG.3; and found throughout the specification, including page 2, lines 4-8; page 8 line 22 through page 10 line 2; and so forth, as well as original Claim 1, 2, 4, 10, 17 and 24.

Support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing the duplicate content and/or related content*" is found in the drawings shown as element 400 in FIG. 4; and found throughout the specification, including: page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*a storage module configured for storing a preference wherein the preference corresponds to types of request and includes at least one criteria for performing the request*" is found in the drawings shown as element 330 in FIG. 3; as block; and found throughout the specification, including page 8, lines 3-6; page 8 lines 22 through page 9 line 8; page 10, lines 12-19; page 15, lines 12-18; and so forth, as well as original Claim 7-8, 11, 16-17 and 21-22.

Support for "*said review module configured for analyzing existing content and a corresponding content record associated with the request, to find duplicate or related content that is available across the system containing the multiple devices*" is found in the drawings shown in FIG. 6 in particular block 630; and found throughout the

specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*said review module automatically completing fields within said new content record based on information contained in existing content as well as information about the presence of duplicate or related content which is available across the multiple devices*" is found in the drawings shown in FIG. 6, in particular described for block 640; and found throughout the specification, including page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*said review module also automatically updates content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content*" is found in the drawings shown in FIG. 6, in particular block 660; and is found throughout the specification, including page 7, lines 9-11; page 9, line 21 through page 10, line 2; page 15, lines 14-18; and so forth, as well as original Claim 14-15.

Support for "*said review module configured for selectively transmitting a confirmation for the request based on the analysis and the presence of duplicate or related content and the preference for determining whether the request is performed*" is found in the drawings shown as element 540 in FIG. 5; and found throughout the specification, including page 2, lines 4-8; page 7, lines 1-8; page 13, lines 10-16; page 16, lines 2-9; and so forth, as well as original Claim 1, 9-10, 20, and 24.

Support for "*said review module executes the request based on receiving the request and instruction from the user in responding to said confirmation*" is found in the drawings shown as element 550 in FIG. 5; as element 730 in FIG. 7; and found throughout the specification, including page 13 line 17 to page 14 line 7; and so forth, as well as original Claims 1-2, and 9-10.

Claim 18. Claim 18 depends from independent Claim 17, and is supported by the specification, drawings and prior claims as follows.

Support for "*a capture module configured to identify content in response to comparing an image of the new content with images contained in the existing content*" is found in the drawings shown as element 320 in FIG. 3; block 510 in FIG. 5; and found throughout the specification, including page 8, line 22 through page 9, line 15; page 10, lines 3-11; page 13, lines 1-9; and so forth, as well as original Claim 18.

Claim 19. Claim 19 depends from independent Claim 17, and is supported by the specification, drawings and prior claims as follows.

Support for "*content includes one from the group of content items consisting of a photograph, music, a document, and a video*" is found in the drawings shown in FIG. 4; and found throughout the specification, including page 13, lines 10-16; page 14 line 13 through page 15 line 11; and so forth, as well as original Claims 5, 12 and 19.

Claim 20. Claim 20 depends from independent Claim 17, and is supported by the specification, drawings and prior claims as follows.

Support for "*the interface module is configured to provide a confirmation based on the criteria for performing the request as contained in said preference, said confirmation configured for confirming that the user desires to proceed with performing the request*" is found in the drawings shown as element 115 in FIG. 1; element 340 in FIG. 3; element 540 in FIG. 5; and found throughout the specification, including page 2, lines 4-8; page 5 line 12 through page 6 line 5; page 2, lines 4-8; page 8, lines 1-2; page 13 line 10 through page 14 line 7; page 16, lines 2-9; and so forth, as well as original Claim 1, 9-10, 20 and 24.

Claim 21. Claim 21 depends from independent Claim 17, and is supported by the specification, drawings and prior claims as follows.

Support for "*the storage module is configured to store the new content record*" is found in the drawings shown as element 330 in FIG. 3; element 650 in FIG. 6; and

found throughout the specification, including page 7, lines 9-11; page 10, lines 12-15; and so forth, as well as original Claims 7-8 and 21-22.

Claim 22. Claim 22 depends from independent Claim 17, and is supported by the specification, drawings and prior claims as follows.

Support for "*the storage module is configured to store the new content*" is found in the drawings shown as element 330 in FIG. 3; element 650 in FIG. 6; and found throughout the specification, including page 7, lines 9-11; page 10, lines 12-15; and so forth, as well as original Claims 7-8 and 21-22.

Claim 23. Claim 23 depends from independent Claim 17, and is supported by the specification, drawings and prior claims as follows.

Support for "*the request includes one from the group of request types consisting of saving, deleting, modifying, and printing of content*" is found in the drawings shown as element 530 in FIG. 5; element 710 in FIG. 7; element 810 in FIG. 8; and found throughout the specification, including page 7, lines 1-8; and so forth, as well as original Claims 6 and 23.

Claim 24. Independent Claim 24 is directed to a computer-readable medium having computer executable instructions for performing a tracking and synchronization method across multiple devices, including a plurality of client devices and a server. The elements of Claim 24 are supported by the specification, drawings and prior claims as follows.

Support for "*receiving a request from a user corresponding to new content submitted by the user*" is found in the drawings shown as element 310 in FIG. 3; as the flowchart of FIG. 6; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Appl. No.:   10/771,805
Filing Date: 02/04/2004
Appealed: 06/30/2010
Appeal Brief Dated: 08/30/2010
Tech. Center: 2161

Support for "*wherein existing content, which is a duplicate or related, to said new content, are retained across multiple devices configured for communicating with one another over a network*" is found in the drawings shown in FIG. 6 in particular block 630; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*creating a new content record for said new content submitted by the user*" is found in the drawings shown in FIG. 6, and in particular block 640; and found throughout the specification, including page 6, lines 18-23; page 7, lines 9-11, page 9, lines 16-20; page 14, lines 8-12; page 15, lines 4-11; and so forth, as well as original Claims 11 and 16.

Support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing the duplicate content and/or related content*" is found in the drawings shown as element 640 in FIG. 6; and found throughout the specification, page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*reviewing existing content records in response to the request and analyzing the associated record to determine what duplicate or related content is available across the multiple devices*" is found in the drawings shown in FIG. 6 in particular block 630; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices*" is found in the drawings shown in FIG. 6, in particular described for block 640; and found throughout the specification, including page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content*" is found in the drawings shown in FIG. 6, in particular block 660; and is found throughout the specification, including page 7, lines 9-11; page 9, line 21 through page 10, line 2; page 15, lines 14-18; and so forth, as well as original Claim 14-15.

Support for "*selectively transmitting a confirmation for the request based on said reviewing and the presence of any duplicate or related content*" is found in the drawings shown as element 540 in FIG. 5; and found throughout the specification, including page 2, lines 4-8; page 7, lines 1-8; page 13, lines 10-16; page 16, lines 2-9; and so forth, as well as original Claim 1, 9-10, 20, and 24.

Support for "*performing the request based on receiving the request and instruction from the user in responding to said confirmation*" is found in the drawings shown as element 550 in FIG. 5; as element 730 in FIG. 7; and found throughout the specification, including page 13 line 17 to page 14 line 7; and so forth, as well as original Claims 1-2, and 9-10.

Claim 25. Independent Claim 25 is directed to a system for synchronizing and tracking content across multiple devices, including a plurality of client devices and a server. The elements of the claim are supported by the specification, drawings and prior claims as follows.

Support for "*a server configured for communication over a network*" is found in the drawings shown as element 120 and 130 in FIG. 1; and found throughout the specification, including page 5 line 12 through page 6 line 17; page 7 line 15 through page 8 line 16; and so forth.

Support for "*a client device configured for communication over the network with said server*" is found in the drawings shown as element 110 and 120 in FIG. 1; and

found throughout the specification, including page 5 line 12 through page 6 line 17;
page 8, lines 10-16; and so forth.

Support for "*an electronic processor in said client device, said server, or in both
said client device and said server*" and "*programming executable on said electronic
processor*" is found in the drawings shown as element 208 within block 110 in FIG. 2;
and found throughout the specification, including page 6, lines 6-11; page 7 line 12
through page 8 line 9; and so forth.

Support for "*receiving a request from a user with new content submitted by the
user*" is found in the drawings shown as element 310 in FIG. 3; as the flowchart of FIG.
6; and found throughout the specification, including page 7, lines 9-11; page 9, line 16
to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as
original Claims 11, 12 and 16.

Support for "*communicating over the network between said client device and said
server device and at least one other client device connected to the network*" is found in
the drawings shown in FIG. 1 - 3 (block 115 in FIG. 1 and block 340 in FIG. 3); and
found throughout the specification, including page 5, line 12 to page 6, line 17; and so
forth.

Support for "*said new content along with existing duplicate content, and/or
related content are retained across multiple client devices configured for communicating
over the network*" is found in the drawings shown as block 110 in FIG. 1 and FIG. 2; as
block 440 in FIG. 4; and found throughout the specification, including page 1, lines 16-
22; page 12, lines 4-16; page 13, lines 10-16; page 15, lines 4-18; page 19, lines 3-10;
and so forth.

Support for "*creating a new content record for said new content submitted by the
user*" is found in the drawings shown in FIG. 6, and in particular block 640; and found
throughout the specification, including page 6, lines 18-23; page 7, lines 9-11, page 9,
lines 16-20; page 14, lines 8-12; page 15, lines 4-11; and so forth, as well as original
Claims 11 and 16.

Support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content*" is found in the drawings shown as element 400 - 460 in FIG. 4; and found throughout the specification, including page 2, lines 4-8; page 3, lines 14-15; page 15, lines 14-18; page 6, lines 18-23; page 9 line 8 through page 10 line 18; and so forth, as well as original Claims 1, 3-4, 8, 10-11, 14, 16-17, 21 and 24.

Support for "*analyzing the new content to find duplicate or related content that is available on devices connected to the network*" is found in the drawings shown in FIG. 6 in particular block 630; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices*" is found in the drawings shown in FIG. 6, in particular described for block 640; and found throughout the specification, including page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content*" is found in the drawings shown in FIG. 6, in particular block 660; and is found throughout the specification, including page 7, lines 9-11; page 9, line 21 through page 10, line 2; page 15, lines 14-18; and so forth, as well as original Claim 14-15.

Support for "*transmitting a confirmation for the request when duplicate or related content is available*" is found in the drawings shown as element 540 in FIG. 5; and found throughout the specification, including page 2, lines 4-8; page 7, lines 1-8; page 13, lines 10-16; page 16, lines 2-9; and so forth, as well as original Claim 1, 9-10, 20, and 24.

Support for "*receiving instruction from the user in responding to said confirmation*" and "*executing the request based on instruction*" is found in the drawings shown as element 550 in FIG. 5; as element 730 in FIG. 7; and found throughout the specification, including page 13 line 17 to page 14 line 7; and so forth, as well as original Claims 1-2, and 9-10.

Claim 26. Independent Claim 26 is directed to a system for synchronizing and tracking content across multiple devices, including a plurality of client devices and a server. The elements of the claim are supported by the specification, drawings and prior claims as follows.

Support for "*a server configured for communication over a network*" and "*a client device configured for communication over the network with said server* " is found in the drawings shown as element 110 - 130 in FIG. 1; and found throughout the specification, including page 5 line 12 through page 6 line 17; page 7 line 15 through page 8 line 16; and so forth.

Support for "*electronic processor in said client device, said server, or in both said client device and said server*" and "*programming executable on said electronic processor*" is found in the drawings shown as element 208 within block 110 in FIG. 2; and found throughout the specification, including page 6, lines 6-11; page 7 line 12 through page 8 line 9; and so forth.

Support for "*storing a preference setting for one or more types of requests, said preference including at least one criteria for performing the request*" is found in the drawings shown as stored within element 330 in FIG. 3; retrieved in element 730 in FIG. 7; retrieved in element 830 of FIG. 8; retrieved in element 925 in FIG. 9; and found throughout the specification, including page 9, lines 8-15; page 10, lines 12-15; page 14, lines 1-7; page 15, lines 2-19; page 17, lines 4-14; page 18, lines 1-4; and so forth, as well as original Claim 2-3, 7 and 17.

Support for "*receiving a request from a user with new content submitted by the user*" is found in the drawings shown as element 310 in FIG. 3; as the flowchart of FIG. 6; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*communicating over the network between said client device and said server and at least one other client device connected to the network*" is found in the drawings shown as element 110 - 130 in FIG. 1; and found throughout the specification, including page 5 line 12 through page 6 line 17; page 7 line 15 through page 8 line 16; and so forth.

Support for "*said new content along with existing duplicate content, and/or related content are retained across multiple client devices configured for communicating over the network*" is found in the drawings shown as block 110 in FIG. 1 and FIG. 2; as block 440 in FIG. 4; and found throughout the specification, including page 1, lines 16-22; page 12, lines 4-16; page 13, lines 10-16; page 15, lines 4-18; page 19, lines 3-10; and so forth.

Support for "*creating a new content record for said new content submitted by the user*" is found in the drawings shown in FIG. 6, and in particular block 640; and found throughout the specification, including page 6, lines 18-23; page 7, lines 9-11, page 9, lines 16-20; page 14, lines 8-12; page 15, lines 4-11; and so forth, as well as original Claims 11 and 16.

Support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content*" is found in the drawings shown as element 400 - 460 in FIG. 4; and found throughout the specification, including page 2, lines 4-8; page 3, lines 14-15; page 15, lines 14-18; page 6, lines 18-23; page 9 line 8 through page 10 line 18; and so forth, as well as original Claims 1, 3-4, 8, 10-11, 14, 16-17, 21 and 24.

Support for "*analyzing the new content to find duplicate or related content that is available on devices connected to the network*" is found in the drawings shown in FIG. 6 in particular block 630; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices*" is found in the drawings shown in FIG. 6, in particular described for block 640; and found throughout the specification, including page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content*" is found in the drawings shown in FIG. 6, in particular block 660; and is found throughout the specification, including page 7, lines 9-11; page 9, line 21 through page 10, line 2; page 15, lines 14-18; and so forth, as well as original Claim 14-15.

Support for "*transmitting a confirmation for the request based on the preference setting when duplicate or related content is available*" is found in the drawings shown as element 540 in FIG. 5; and found throughout the specification, including page 2, lines 4-8; page 7, lines 1-8; page 13, lines 10-16; page 16, lines 2-9; and so forth, as well as original Claim 1, 9-10, 20, and 24.

Support for "*receiving instruction from the preference setting, and/or from the user in responding to said confirmation, as to how to execute said request*" and "*executing the request in response to said instruction*" is found in the drawings shown as element 550 in FIG. 5; as element 730 in FIG. 7; and found throughout the specification, including page 13 line 17 to page 14 line 7; and so forth, as well as original Claims 1-2, and 9-10.

Claim 27. Independent Claim 27 is directed to a system for synchronizing and tracking content across multiple devices, including a plurality of client devices and a server. The elements of the claim are supported by the specification, drawings and prior claims as follows.

Support for "*a client device configured for communication over the network with a server and/or at least one other client device*" is found in the drawings shown as element 110 and 120 in FIG. 1; and found throughout the specification, including page 5 line 12 through page 6 line 17; page 8, lines 10-16; and so forth.

Support for "*an electronic processor in said client device*" and "*programming executable on said electronic processor*" is found in the drawings shown as element 208 within block 110 in FIG. 2; and found throughout the specification, including page 6, lines 6-11; page 7 line 12 through page 8 line 9; and so forth.

Support for "*receiving a request from a user with new content submitted by the user*" is found in the drawings shown as element 310 in FIG. 3; as the flowchart of FIG. 6; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*communicating over the network between said client device and a server and/or at least one other client device connected to the network*" is found in the drawings shown in FIG. 1 - 3 (block 115 in FIG. 1 and block 340 in FIG. 3); and found throughout the specification, including page 5, line 12 to page 6, line 17; and so forth.

Support for "*said new content along with existing duplicate content, and/or related content are retained across the server and/or multiple client devices configured for communicating over the network*" is found in the drawings shown as block 110 in FIG. 1 and FIG. 2; as block 440 in FIG. 4; and found throughout the specification, including page 1, lines 16-22; page 12, lines 4-16; page 13, lines 10-16; page 15, lines 4-18; page 19, lines 3-10; and so forth.

Support for "*creating a new content record for said new content submitted by the user*" is found in the drawings shown in FIG. 6, and in particular block 640; and found throughout the specification, including page 6, lines 18-23; page 7, lines 9-11, page 9, lines 16-20; page 14, lines 8-12; page 15, lines 4-11; and so forth, as well as original Claims 11 and 16.

Support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content*" is found in the drawings shown as element 400 - 460 in FIG. 4; and found throughout the specification, including page 2, lines 4-8; page 3, lines 14-15; page 15, lines 14-18; page 6, lines 18-23; page 9 line 8 through page 10 line 18; and so forth, as well as original Claims 1, 3-4, 8, 10-11, 14, 16-17, 21 and 24.

Support for "*analyzing an image in the new content to find images of duplicate or related content in the existing content that is available on servers and/or client devices connected to the network*" is found in the drawings shown in FIG. 6 in particular block 630; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content*" is found in the drawings shown in FIG. 6, in particular described for block 640; and found throughout the specification, including page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*transmitting a confirmation for the request when duplicate or related content is available*" is found in the drawings shown as element 540 in FIG. 5; and found throughout the specification, including page 2, lines 4-8; page 7, lines 1-8; page 13, lines 10-16; page 16, lines 2-9; and so forth, as well as original Claim 1, 9-10, 20, and 24.

Support for "*receiving instruction from the user in responding to said confirmation*" and "*executing the request based on said instruction.*" is found in the drawings shown as element 550 in FIG. 5; as element 730 in FIG. 7; and found throughout the specification, including page 13 line 17 to page 14 line 7; and so forth, as well as original Claims 1-2, and 9-10.

Claim 28. Independent Claim 28 is directed to a apparatus for synchronizing and tracking content across multiple devices, including a plurality of client devices and a server. The elements of the claim are supported by the specification, drawings and prior claims as follows.

Support for "*a server configured for communication over a network with client devices*" is found in the drawings shown as element 110 - 130 in FIG. 1; and found throughout the specification, including page 5 line 12 through page 6 line 17; page 7 line 15 through page 8 line 16; and so forth.

Support for "*an electronic processor in said server*" and "*programming executable on said electronic processor for*" is found in the drawings shown as element 208 within block 110 in FIG. 2; and found throughout the specification, including page 6, lines 6-11; page 7 line 12 through page 8 line 9; and so forth.

Support for "*receiving a request from a user with new content submitted by the user*" is found in the drawings shown as element 310 in FIG. 3; as the flowchart of FIG. 6; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

Support for "*communicating over the network between said server and at least one said client device connected to the network*" is found in the drawings shown as element 110 - 130 in FIG. 1; and found throughout the specification, including page 5 line 12 through page 6 line 17; page 7 line 15 through page 8 line 16; and so forth.

Support for "*said new content along with existing duplicate content, and/or related content are retained across said server and at least one said client device configured for communicating over the network*" is found in the drawings shown as block 110 in FIG. 1 and FIG. 2; as block 440 in FIG. 4; and found throughout the specification, including page 1, lines 16-22; page 12, lines 4-16; page 13, lines 10-16; page 15, lines 4-18; page 19, lines 3-10; and so forth.

Support for "*creating a new content record for said new content submitted by the user*" is found in the drawings shown in FIG. 6, and in particular block 640; and found throughout the specification, including page 6, lines 18-23; page 7, lines 9-11, page 9, lines 16-20; page 14, lines 8-12; page 15, lines 4-11; and so forth, as well as original Claims 11 and 16.

Support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content*" is found in the drawings shown as element 400 - 460 in FIG. 4; and found throughout the specification, including page 2, lines 4-8; page 3, lines 14-15; page 15, lines 14-18; page 6, lines 18-23; page 9 line 8 through page 10 line 18; and so forth, as well as original Claims 1, 3-4, 8, 10-11, 14, 16-17, 21 and 24.

Support for "*analyzing the new content to find duplicate or related content that is retained on client devices connected to the network*" is found in the drawings shown in FIG. 6 in particular block 630; and found throughout the specification, including page 7, lines 9-11; page 9, line 16 to page 10, line 2; page 14, lines 8 through page 15, line 18; and so forth, as well as original Claims 11, 12 and 16.

.   Support for "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices*" is found in the drawings shown in FIG. 6, in particular described for block 640; and found throughout the specification, including page 6, lines 18-23; page 9, lines 16-20; page 15, lines 4-11; and so forth, as well as original Claim 11.

Support for "*automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content*" is found in the drawings shown in FIG. 6, in particular block 660; and is found throughout the specification, including page 7, lines 9-11; page 9, line 21 through page 10, line 2; page 15, lines 14-18; and so forth, as well as original Claim 14-15.

Support for "*transmitting a confirmation for the request when duplicate or related content is available*" " is found in the drawings shown as element 540 in FIG. 5; and found throughout the specification, including page 2, lines 4-8; page 7, lines 1-8; page 13, lines 10-16; page 16, lines 2-9; and so forth, as well as original Claim 1, 9-10, 20, and 24.

Support for "*receiving instruction from the user in responding to said confirmation*" and "*executing the request based on said instruction.* " is found in the drawings shown as element 550 in FIG. 5; as element 730 in FIG. 7; and found throughout the specification, including page 13 line 17 to page 14 line 7; and so forth, as well as original Claims 1-2, and 9-10.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on appeal are as follows.

Claims 1-10 and 17-28 under 35 U.S.C. §103(a) over Lamkin (U.S. Pat. Appl. Publ. No. 2006/0159109), in view of Lissar (U.S. Patent No. 7,225,197).

ARGUMENT

1. **Rejection of Claims 1-10 and 17-28 under 35 U.S.C. § 103(a).**

Claims 1-10 and 17-28 were rejected for obviousness under 35 U.S.C. § 103(a) based on the combined teachings of Lamkin (U.S. Publ. No. 2006/0159109) and Lissar (U.S. Pat. No. 7,225,197).

The Applicant respectfully traverses the final rejection for the reasons discussed in detail below. The Applicant asserts that the cited references do not teach what they are purported to teach, and the combination does not teach all aspects and interoperability recited in the claims. In addition, teachings from a Lamkin non-provisional reference (U.S. Publ. No. 2006/0159109) are relied upon which was filed after the instant application, even though many of those teachings are not supported by the earlier filed Lamkin provisional (60/531,565). The rationale for asserting a combination between Lamkin and Lissar was not made explicit and relies on conclusory statements of benefit which could be said to apply to any device in this field. Still further, combining the Lamkin and Lissar references would necessitate changing the objects and operating principles of those references thus mitigating against their combination.

It will be seen from the Final Office Action whose mail date is 03/30/2010 that a single argument is advanced "*Regarding Claims 1, 10, 17, 18 and 24-28*", which include all eight (8) of the independent claims of the instant application. These independent claims are treated as if they all disclosed the same material of Claim 1, despite the fact that they recite different elements and scopes thereof. Applicant arguments regarding the impropriety of ignoring the specific claim language of the more narrowly worded claims have been ignored though numerous office actions.

As is generally well recognized, EACH claim of an application is to be accorded equal weight and its specific wording and language examined. There are many aspects of these independent claims which have not been considered, and had they been properly considered Applicant believes the case would have been advancing all along. In particular, independent claims, such as Claim 17 and 24-28, contain a number of limitations and the recitation of these claims *in-toto* have not been considered, only the portions in common with the broadest independent Claim 1. The consideration of such "omnibus" rejections are spoken of in MPEP 707.07(d):

IMPROPERLY EXPRESSED REJECTIONS

An omnibus rejection of the claim "on the references and for the reasons of record" is stereotyped and usually not informative and should therefore be avoided. This is especially true where certain claims have been rejected on one ground and other claims on another ground. <u>A plurality of claims should never be grouped together in a common rejection, unless that rejection is equally applicable to all claims in the group.</u> (emphasis added)

A note is in order as to the structure of the 03/30/2010 Office Action. In a first part of the rejection (page 3) directed at Claims 1, 10, 17, 18 and 24-28, the Examiner copies a number of paragraphs from the later filed (non-prior art) Lamkin reference, <u>without any comments aside from "*see [000x]*"</u>. Applicant has attempted to address issues which <u>may</u> be contained in these sections although the Examiner has continually failed to discuss what these supposedly teach in regards to Applicant claims. Then on page 4 of the OA, the examiner copies each element of applicant Claim 1 and merely inserts one or more paragraph numbers directed to Lamkin (e.g., *("[0118-0119], Lamkin)"*). <u>Again, the Examiner provides NO discussion of how paragraphs supposedly relate to the claim recitations.</u> On page 5 of the OA, the Examiner provides some discussion about the later filed Lamkin reference, more in regards to postulating how Examiner considers certain teachings of Lamkin to be applicable. Near the bottom of page 5 the Examiner posits *"On the other hand, Lissar discloses automatically completing fields within the record (column 2, lines 57-67 and column 10, lines 14-28, Lissar)"*, and proceeds to indicate a general benefit to *"increase within the integrity of the data. Thus, allowing for a more efficient and user-friendly system"*. Examiner does not discuss in this section how these two areas from the Lissar reference purportedly relate to elements of the claimed invention at all. Once again, the Applicant is left to try and figure out how these sections MAY relate and discuss accordingly. Applicant contends that simply throwing out paragraph numbers does not of itself constitute establishing a *prima facie* case of obviousness. In a later section of the OA on pages 9-12, the Examiner purports to render support for the later filed (non-prior art) Lamkin

reference from the earlier filed Lamkin provisional. These arguments are addressed by the Applicant and it is shown that these sections from the provisional do not discuss that for which they are relied upon. This process is made rather more cumbersome in that the Examiner does not discuss how each of the paragraphs listed in the rejection from the later filed Lamkin reference supposedly relate to the recited claims.

Applicant discusses each of the independent claims (Claims 1, 10, 17 and 24-28) in a separate section, so that the differences can be properly addressed.

A.   Independent Claim 1.

The Examiner asserts that the Lamkin / Lissar combination teaches all of the elements of independent Claim 1 (as well as Claims 10, 17-18 and 24-28 discussed in later sections). That assertion is incorrect as the following sections will demonstrate.

A1.   Teachings Relied Upon are Not Prior Art.

The grounds for rejection are fatally flawed in that the Examiner relies on the teachings of the **non-prior art** Lamkin reference (US Pub. No. 2006/0159109) solely because it claims priority to an earlier-filed provisional application, serial number 60/531,565. **However, the earlier-filed Lamkin provisional application does not contain the teachings of the later-filed Lamkin reference that the Examiner requires to support the rejection**.

The Applicant has previously brought this error to the attention of the Examiner, yet, in the "*response to arguments*" section of the instant Office Action, the Examiner continues to assert the later filed non-prior Lamkin reference as prior art without providing proper and necessary support from the earlier filed provisional. The non-provisional Lamkin reference is simply not prior art that can be cited by the Examiner against the instant application unless support is shown from the provisional application for each element used against Applicant claims, because the instant application has an earlier effective priority date than the material added to the non-provisional Lamkin reference.

MPEP 706.02 Rejection on Prior Art, describes in section VI the necessity of there existing adequate support from the provisional application when the effective filing date of teachings from the non-provisional application are being considered.

VI.   DETERMINING THE EFFECTIVE FILING DATE OF THE APPLICATION

: : : : :

(D) If the application properly claims benefit under 35 U.S.C. 119(e) to a provisional application, the effective filing date is the filing date of the provisional application for any claims **which are fully supported under the first paragraph of 35 U.S.C. 112 by the provisional application**. (emphasis added)

The above manifestly indicates that the teachings of the later filed Lamkin reference cannot be relied upon in a rejection unless these teachings are "*fully supported under the first paragraph of 35 U.S.C. 112 by the provisional application*". Examiner has failed to provide the necessary support from the provisional application in support of teachings found in the earlier Lamkin provisional, as will be discussed in more detail in the following sections regarding specific claim limitations.

A2.   Combination Does Not Teach New Content …submitted by User.

The Lamkin / Lissar Combination Does Not Teach "receiving new content …submitted by a user" with regard to Applicant's claim element of "*receiving new content for which no record exists, associated with a request submitted by a user*", the Examiner cites paragraph [0069] of Lamkin (publ. app. 2006/0159109), **which is not prior art**. The subject matter of paragraph [0069] of Lamkin publ. app. 2006/0159109 cannot be used as prior art because **paragraph [0069] is new matter introduced by Lamkin after the Applicant's priority date** and was not taught or enabled by Lamkin provisional application serial number 60/531,565. **The Applicant's effective filing date**, while being after Lamkin's provisional application serial number 60/531,565, **is prior to the filing date of Lamkin publ. app. 2006/0159109 where the subject**

matter of paragraph [0069] was introduced for the first time.

The Examiner attempts to address this serious flaw in the grounds for rejection by referring to page 13, 1st paragraph of the Lamkin provisional application serial number 60/531,565, which is duplicated below:

> *In accordance with another embodiment of the present invention a search engine is provided <u>that searches for entities and collections at located within different trust levels</u>. In one embodiment, the results of the search are based upon at least one of the trust level the entity is located at and metadata associated with the entity. A user may also base the search results upon a user profile or a specified request.*

The Examiner cites the foregoing general statement found in Lamkin's provisional application as teaching "<u>*wherein the search (i.e. request) within the search engine is clearly performed by a user*</u>". However, that statement is NOT the language of paragraph [0069], nor does it teach the same thing or relate to that addressed in paragraph [0069], of that later-filed (i.e., non-prior art) Lamkin application relied upon by the Examiner to support the rejection. Further, it is not difficult to see that the phrase "<u>*wherein the search (i.e. request) within the search engine is clearly performed by a user*</u>" does not even come close to the limitation "<u>*receiving new content for which no record exists, associated with a request submitted by a user*</u>" recited in the Applicant's Claim 1.

In fact, looking closer at page 13, 1st paragraph of Lamkin provisional application serial number 60/531,565, we see that it teaches just the opposite of what the Examiner needs it to teach in order to rely on that provisional application as prior art.

More specifically, that section of the Lamkin provisional application teaches that the user "<u>*searches for entities and collections*</u>" (in which entities are records containing content); <u>it does NOT teach the user supplying this content</u>. This is not surprising since the "*trust levels*" taught by Lamkin are associated with the user making payments for obtaining content, as explained at page 59, lines 19-23 of the same Lamkin provisional application; namely: "<u>*Create a services model for a trusted entity. This trusted entity*</u>

could charge customers for entities. This allows for a user billing model for paying for
content. This could be on a per use basis, a purchase for unlimited usages etc."
(emphasis added).

In defining services for Entities and Collections, the same Lamkin provisional
application states at page 94, lines 4-6: "_1. Collection Name Service & Entity Name_
Service - creating a hierarchical structure across the WAN allowing for distributed
searches, acquisition & management" (emphasis added). The Lamkin provisional
application clearly shows that the entities and collections are records within a
hierarchical database structure, whose records can be searched by the user - **they are**
not records submitted by the user.

Additionally, the Examiner refers to page 42, 1st and 2nd paragraphs of Lamkin
provisional application serial number 60/531,565 as teaching "_receiving new content_
within a request submitted by a user" per the Applicant's Claims. Again, the Examiner
has misinterpreted / misapplied the Lamkin provisional application. That language from
Lamkin's provisional application is repeated below:

> There may be various types of entities _within a collection and the content_
> _manager determines which version to playback based on rules and criteria_. The
> rules or criteria can include: a Rating (e.g., G, PG, PG-13, R) , a display device
> format (e.g., 16:9, 320x240 screen size), bit rates for transferring streaming
> content, and input devices available (e.g., it does not make sense to show
> interactive content that requires a mouse when only a TV remote control is
> available to the user).
> The content manager provides graceful degradation of the entities and the
> _playback of the collection. The content manager uses the collection name service_
> _module to request new content for playback_. The content manager _coordinates_
> _all of the rules and search criteria used to find new content_. Additionally, the
> content manager is able _to build up collections from various entities that meet the_
> _criteria as well_. In one embodiment, the content manager applies a fuzzy logic to
> determine which _entities_ to include in a collection and how they should be
> displayed on the screen as well as the playback order of the entities. The content
> manager also delivers to the Presentation Layout manager the information to
> display the entities on the screen and controls the positioning, layers, overlays,
> and overall output of the presentation layout manager.

Although the above portion of the Lamkin provisional application contains the phrase "new content", it is abundantly evident from the context that <u>Lamkin is discussing content being obtained in response to the search, content for which there must be a record already in the database because that record is being searched by the content manager, and the content is only "new" in the sense of not having been previously retrieved from the database by the user</u>.

It can be seen from the text that the content manager described in Lamkin's provisional application performs the search "*within a collection*", and the collection manager "*coordinates all of the rules and search criteria used to find new content*". This makes it explicit that the "*new content*" is that which satisfies the "*rules and search criteria*" of the search of a known collection. This content is thus only "new" in the sense that it satisfies the search criterion of the user. It should also not be forgotten that a search of a collection is performed in response to searching fields (in this case Metadata fields), <u>which of course requires that a record exists for that content item to allow a search to be performed</u>. Page 67 of the Lamkin provisional application shows the hierarchical levels of metadata fields which comprise a collection, such as disclosing "*title entity*", "*text entity*", "*trailer entity*", "*preview entity*" and so forth as also shown in FIG. 17 of that reference.

However, as described above, the "*entities*" are records of content contained on the system database, **and not content being supplied by the user**. Why, in the system described in Lamkin's provisional application, would a user supply the content that he/she is requesting to find via a search of known content databases? They would not - it would make no sense whatsoever to do so, and Lamkin's provisional application does not teach doing so. The misreading / misapplication of Lamkin's provisional application in the rejection simply does not properly considered the entirety of Applicant's claim language. It is well established, however, that <u>all of the words of a claim element must be considered in positing a rejection</u>. The fact that Lamkin's provisional application contains the phrase "*new content*" does not in itself provide

support for the rejection. It will be noted that Applicant is not seeking to protect any system which somehow uses any form of "*new content*", but instead, Claim 1 recites a specific methodology with many interrelated elements specified in the claim.

The Examiner further refers to page 58, 1st paragraph of the Lamkin provisional 60/531,565 to support Examiner's contention that Lamkin discloses "*receiving new content within a request submitted by a user*". Once again, the Examiner has misinterpreted / misapplied the Lamkin provisional application. That language is repeated below:

> *New Content Acquisition Agent (NCAA) - the new content acquisition agent acts as a broker on behalf of a specific user to acquire new content collections and the associated access rights for those collections. This may involve an e-commerce transaction. It uses the Content Search Engine and a Content Filter to locate and identify the content collection desired and negotiates the access rights through the Access Rights Manager. Content filter is not part of the playback engine but instead part of the content manager and the New Content Acquisition Agent.*

Again, we see from the above that the Lamkin provisional application is describing obtaining of content based on searching known content records. The content is clearly NOT NEW since it is capable of being searched, and in fact there are even access rights to that known content. The content is "known" since there exists a content record. The content is only "new" in regard to the text of Lamkin because that particular user has not yet obtained that particular item of content in their collection. **Lamkin's provisional application DOES NOT teach content "*for which no record exists, associated with a request submitted by the user*" as recited in the Applicant's Claim 1**.

Therefore, it is quite clear that the Examiner has misinterpreted / misapplied the Lamkin provisional application, and that the Lamkin provisional application does not support the Examiner's original assertion that Lamkin teaches "*receiving new content within a request submitted by a user*".

Furthermore, nothing is advanced by the Examiner in the rejection that the Lissar reference or its combination with Lamkin teaches the foregoing element of the Applicant's Claim 1. And, further, the Lamkin and Lissar references, whether considered separately or in combination with one another and what is known in the art, do not teach this element of Claim 1. The Examiner has clearly failed to establish *prima facie* obviousness.

Clearly, the Lamkin / Lissar combination does not meet the limitation "_receiving new content submitted by a user, for which no record exists, associated with a request submitted by the user_" found in the Applicant's Claim 1. Accordingly, the rejection must be withdrawn.

A3.   Combination Does Not Teach Reviewing and Comparing New Content.

The Lamkin / Lissar Combination Does Not Teach "*reviewing said new content ...and comparing*". The Examiner asserts that the second element of Claim 1, which recites "*reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content*", is taught at page 5, 3rd paragraph of the Lamkin provisional 60/531,565, which reads.

> *The present invention advantageously addresses the needs mentioned previously as well as other needs by providing services that facilitates the access and use of related or updated content to provide augmented or improved content with playback of content.*

The Examiner asserts that the above language teaches "*providing services that facilitate the access and use of related content to provide improved content*".

The Applicant fails to see how the cited language from Lamkin's provisional application equates to a teaching of "*reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content*". In fact, the Examiner's conclusion is seriously flawed for several reasons, which include the following:

(1) The cited section of the Lamkin provisional application does not teach the understanding of "*new content*" as discussed above with regard to the 1st element of the Applicant's Claim 1.

(2) The cited section of the Lamkin provisional application does not teach reviewing that content. It must be recognized that content is differentiated from a record of the content, because a content record according to the claim has not yet been created until the next element of the Applicant's Claim 1 is performed.

(3) The teaching of "*access and use of related content*" in the Lamkin provisional application does not equate with comparing "*existing content for which a record exists*" with this "*new content*" for which "*no record exists*" (as recited in the first element of the Applicant's Claim 1) to determine if it is "*a duplicate or related to said new content*" as recited in the Applicant's claim.

The Examiner mentions that Lamkin "*discloses comparing of content on pages 8 of 99 and 94 of 99*". However, on those pages the Applicant merely finds a discussion of searching metadata fields of records within content databases to find content which matches the search criterion of the request. The Applicant finds no discussion whatsoever of actually comparing the content of new content - for which no record has yet been created - with existing content for which a record exists. Thus, Applicant asserts that the above section of Lamkin (page 5, 3rd paragraph) has no bearing on teaching the second element of Applicant Claim 1.

Furthermore, nothing is advanced by the Examiner in the rejection that the Lissar reference or its combination with Lamkin teaches the foregoing element of the Applicant's Claim 1. And, further, the Lamkin and Lissar references, whether considered separately or in combination with one another and what is known in the art, do not teach this element of Claim 1. The Examiner has clearly failed to establish *prima facie* obviousness.

Clearly, the Lamkin / Lissar combination does not meet the limitation
"*reviewing said new content in response to the request and comparing with*

existing content for which a record exists and which is a duplicate or related to said new content " found in the Applicant's Claim 1, whereby the rejection should be withdrawn.

A4. Combination Does Not Teach Automatic Completion Aspect.

The Lamkin / Lissar Combination Does Not Teach "*automatically completing fields ...new content record*" as recited in Claim 1 of the instant application. In response to Applicant's prior argument that Lamkin fails to teach this element of Claim 1, the Examiner asserts that "*one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.*" In the context in which it is used by the Examiner, that statement is not correct. A combination of references is only as good as the individual references that form the combination, and, if a reference in the combination is misinterpreted, misapplied and/or fails to teach what the Examiner purports the reference to teach, the combination fails and cannot be used to support the rejection.

The Examiner relies primarily on the Lissar reference as teaching this element of Claim 1, and the Applicant has fully addressed the Lissar reference in that regard. However, the Examiner also made numerous assertions regarding the purported teachings of Lamkin in support of the rejection. Because those assertions appeared to be clearly incorrect, the Applicant had to address those assertions in traversal of the rejection.

The Applicant respectfully reminds the Examiner that a "*combination*", by its very appellation, involves taking teachings from one reference and adding them to the teachings of another reference or what is known in the art. Accordingly, it is necessary to discuss the individual references that are combined as well as the Examiner's assertions used to support the combination as grounds for rejection. In the instant application, the Examiner has made assertions as to what teachings are being relied on in each reference. Then, when the Applicant demonstrates that the cited references do

not teach what the Examiner purports them to teach, the Examiner contravenes the requirements of the MPEP and claims that the Applicant is ignoring the combination.

In order to reject a claim based on obviousness, the Examiner is required to comply with the requirements of the MPEP, including the following provision:

> 2143.03 All Claim Limitations Must Be Taught or Suggested
>
> To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

The MPEP requires that all claim limitations must be taught or suggested by the cited combination (and that the cited combination actually be prior art, unlike the situation here). It is certainly proper for the Applicant to traverse a rejection based on attacking individual references in a cited combination when those references are not prior art and/or do not teach what the Examiner purports them to teach.

In the Applicant's last response, the Applicant addressed the Examiner's incorrect statements about Lamkin teaching of "*comparing and completing of records*". The Applicant clearly demonstrated that the only way that the Examiner could support the rejection was to rely on the new matter introduced in the later-filed Lamkin reference - but, that reference is NOT PRIOR ART with regard to that new matter. And, further, the portions of the later-filed Lamkin reference relied upon by the Examiner do not even teach what the Examiner purports them to teach.

A5.   Lamkin / Lissar Combination Does Not Support the Rejection.

Referring to the Applicant's prior response regarding <u>Lissar's</u> lack of teaching a number of elements of Claim 1, including "*automatically completing fields*", the Examiner again asserts that "*one cannot show nonobviousness by attacking references*

individually where the rejections are based on combinations of references."

Again the Examiner is simply incorrect in using the statement in this context. If the required teachings are neither contained in reference A nor contained in reference B, and there are no other teachings relied upon, then the required teachings are certainly not contained in the combination of A + B. The Applicant wonders then what the Applicant would be allowed to discuss if the purported teachings of the individual references combined by the Examiner considered to be off limits.

The Applicant clearly showed in its response to the previous Office Action that the Examiner misapplied the Lissar reference. The Applicant then showed how the "combination" of Lamkin and Lissar still failed to teach all of the elements of Claim 1 because Lamkin was also misapplied. Again, if Lissar doesn't teach a claim element and Lamkin doesn't teach that same claim element, the combination cannot provide what the individual references do not.

It is largely the teachings of the Lissar reference upon which the Examiner has relied to find a teaching of "*automatically completing fields*". However, the entirety of the Examiner's statement regarding the teachings of the Lissar reference are that "*Lissar does teach reading data of other fields during data entry of fields in a record to automatically provide suggestions for inputting data into other fields of the record (see col. 2, lines 57-67), which corresponds to the above-argued feature of automatically completing fields.*"

However, there is no discussion by the Examiner of (1) specifics from the Lissar reference which support this supposition, (2) how such teachings read on the numerous claim elements and interrelations of "*automatically completing fields*", or (3) how these teachings from Lissar would be combined with the Lamkin provisional application to yield the Applicant's claimed invention. Why? Because the Lissar / Lamkin combination does not support the rejection.

It is very clear that, from the approach taken, the Examiner attempts to distill down the entire language of the Applicant's claims into a few words or phrases taken

Appl. No.:   10/771,805
Filing Date: 02/04/2004
Appealed: 06/30/2010
Appeal Brief Dated: 08/30/2010
Tech. Center: 2161

out of context, such as "*new content*" and "*automatically completing fields*", without considering the other operable language of the claim which describes additional elements and interoperability which are part of the invention as recited in its claims. This piecemeal approach contravenes proper examination practice and the MPEP which requires that <u>ALL portions of the claim be fully considered</u>.

Indeed, as the Board of Patent Appeal and Interferences has confirmed, a proper obviousness determination requires that an Examiner make "**a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art.**" See In re Wada and Murphy, Appeal 2007-3733, citing In re Ochiai, 71 F.3 d 1565, 1572 (Fed. Cir. 1995) (emphasis in original). <u>Further, the necessary presence of all claim features is axiomatic, since the U.S. Supreme Court has long held that obviousness is a question of law based on underlying factual inquiries</u>, including … <u>ascertaining the differences between the claimed invention and the prior art</u>. Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966) (emphasis added).

Significantly, the only portion of Lissar that the Examiner could reference for purportedly teaching the Applicant's limitation of Claim 1 of "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content which is available on the multiple devices*" and other interoperable sections of the Applicant's Claim 1, is the language found at column 2, lines 57-67 of Lissar, duplicated below:

> *Another aspect of the present invention provides reading, during data entry of fields in a record (for example, a new record), data of other fields and/or records in a database to automatically provide suggestions for inputting data into (i.e., filling or completing) other fields of the record being entered or automatically filling the other fields of the record being entered. In particular, the present invention provides while entering data into a field of a record, to search the database for fields similar to or associated with the entered field to fill with data other fields of the record being entered, allowing automatic real-time intelligent data entry.*

Yet, the data entry process of Lissar - "*during data entry of fields in a record, …
automatically provide data input suggestions*" - does not support the Examiner's
rejection of the Applicant's Claim 1.

Specifically, the Applicant's Claim 1 recites in this regard: "*automatically
completing fields within said new content record based on information contained in the
new content as well as information about the presence of duplicate or related content
which is available on the multiple devices*;" and "*wherein new content without an
existing record is compared with existing content having a corresponding record, and if
the new content is at least similar to existing content, then the records from the existing
content are utilized in completing the fields of the new content*" and "*updating the
records of duplicate or related content with information about the new content
associated with said new content record to synchronize all the content records.*"

It is evident that, in attempting to support the rejection, the Examiner has tried to
subsume all of the Applicant's detailed language in this element of Claim 1 into a
general concept of "*automatically completing fields*". Doing so is clear error on the part
of the Examiner, since the Examiner has failed to take into consideration the full
meaning of the phrase, including each word therein, as well as the context of the
language in the claim as a whole. The Examiner has not even come close to showing
that the cited Lamkin / Lissar combination meets this limitation of the Applicant's claim,
and clearly has not established a *prima facie* case of obviousness. **The cited
references themselves simply do not teach or suggest this element of the
Applicant's claim and the rejection should be withdrawn**.

A6.   Errors at Pages 3-8 of the Office Action.

The later-filed (non-prior art) Lamkin published application no. 2006/0159109 is
still being cited by Examiner in support of the rejection in each of these claim. Yet, the
Examiner has not shown that the relied-upon language is entitled to the priority of
Lamkin's provisional application no. 60/531,565. The Applicant herein has already

established that the published (2006/0159109) Lamkin application (U.S. Serial No. 11/303,507) cited by the Examiner was filed on December 16, 2005, which is almost two years (21 months) after the Applicant's February 4, 2004 filing date. Therefore, Lamkin is not prior art unless the relied upon teachings of Lamkin are also found in Lamkin's earlier-filed provisional application no. 60/531,565. In actuality, however, the portions of the Lamkin published application relied upon by the Examiner represent new matter not contained in Lamkin's earlier-filed provisional application.

At pages 3-4 of the Office Action, the Examiner makes bare references to paragraphs [0005], [0006], [0072], [0132], [0069], [0073], [0104], [0118-0119], [0140], and [0151] in the non-prior art Lamkin published application filed on 12/16/2005. However, the Examiner fails to: (1) explain how the cited paragraphs supposedly teach the claim elements for which they are relied upon; and (2) show where those same teachings can be found in the Lamkin provisional application 60/531,565 filed on (other than in the "Response to Arguments" section discussed above). In order to support a rejection for obviousness, the Examiner must make a full comparison of the claim language and the prior art. The mere reference to those paragraphs does not constitute such a comparison, and, further, does not establish that those paragraphs are not new matter in relation to Lamkin's provisional application.

Then, at page 5 of the Office Action, the Examiner provides some articulated reasoning with regard to selected portions of the Applicant's Claim 1. Specifically, the Examiner states that "*Lamkin does teach the identification of related/similar content and comparing that content with new content (see [0091] and [0104])*".

However, the Examiner has simply not met its burden of properly examining the Applicant's claim language. In its January 2008 decision entitled *In re* Wada and Murphy (*Ex parte* H. Garrett Wada, and Matthew B. Murphey, Appeal 2007-3733, Application 10/613,220, January 14, 2008), the BPAI reversed a § 103 rejection based on *In re* Ochiai, 71 F.3d 1565, 1572 (Fed. Cir. 1995) because the Examiner did not explain where or how art cited by the Examiner taught or suggested all of the features of

a claimed invention. Of particular interest is the following BPAI articulation of applicable law from *In re* Wada and Murphy:

> When determining whether a claim is obvious, an examiner must make "**a searching comparison** of the claimed invention – including all its limitations – with the teaching of the <u>prior art</u>." In re Ochiai, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, "obviousness requires a suggestion of all limitations in a claim." CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing In re Royka, 490 F.2d 981, 985 (CCPA 1974)). Moreover, as the Supreme Court recently stated, "there must be some <u>articulated reasoning</u> with some rational underpinning to support the legal conclusion of obviousness." KSR Int'l v. Teleflex Inc., 127 S. Ct. 1727, 1741 (2007) (quoting In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006) (emphasis added)).

In the instant application, the Examiner only makes conclusory references to portions of the cited Lamkin published application. In its discussion above, the Applicant has established that Lamkin is not prior art since the Examiner's references are new matter over Lamkin's provisional application. The Applicant has also established that the Lamkin provisional application does not teach what the Examiner purports it to teach. In addition, the Applicant has established that the entire basis of the Examiner's reasoning is the assertion of a 'gist' or 'thrust' of the claimed teachings without considering the specific text of the claims and the cooperation of the elements as recited in the Applicant's claims.

In support of the rejection, the Examiner also conjectures on the basis of the non-prior art Lamkin reference that "*Since there is a comparing and completing of records that need to be made, there is a need to have new content without an existing record is compared with existing content having a corresponding record, and if the new content is at least similar to existing content, then the records from the existing content are utilized in completing the fields of the new content.*" The Applicant respectfully submits that there is no support for the Examiner's unwarranted conclusion. Respectfully, the Applicant notes that the Examiner's conclusion does not logically follow the premise. In

the discussion above, the Applicant has shown that Lamkin is directed to obtaining content for which records already exist, and does not address receiving the content from the user.

A careful reading of the Lamkin provisional application reveals that the provisional application is silent about "*comparing and completing records*" as the term is used by the Examiner. Lamkin searches for existing content, and Lamkin can then just copy the metadata fields from the existing content when the content is copied. The Lamkin provisional application does not teach "*reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content*" or "*based on information contained in the new content as well as information about the presence of duplicate or relation content*", as recited in the Applicant's Claim 1. Obviously, it is an unwarranted generalization on the part of the Examiner to attempt to distill these elements of Claim 1 down to "*comparing and completing records*", and is antithetical to a full examination of the claims.

Furthermore, a "*comparison of records*" is not the same as filling out a new record from material contained in pre-existing records, and it should be appreciated that the data about the content typically accompanies the content of a new record, in particular regarding the movie content discussed by Lamkin. There is no teaching of a "*comparison of records*" that can be found in the Lamkin provisional application, and the Examiner's conclusion does not logically follow from the teachings of the Lamkin provisional application in any event.

And, EVEN IF the Lamkin published application no. 2006/0159109 could properly be treated as prior art, the cited reference still would not support the rejection. The Examiner refers to paragraph [0140] of Lamkin as teaching automatic completion of new records from the user, as duplicated below:

> [0140] Similarly, in step 954, the process <u>determines whether the statuses of</u> <u>copies of the content are to be changed</u>. When the status is to be changed, step 956 is entered <u>where the status is changed to appropriate copies of the content</u>. In step 960 the process determines whether content has been changed or updated. When the content has been changed, step 962 is entered where it is determined whether to change or update copies on the network. When content on the network is to be updated or changed, step 964 is entered and appropriate content is updated or changed. This determination can include comparing the changed content to a base content or content on the network, identifying changes and implementing similar changes over the network.

However, all that is taught by paragraph [0140] is that the status of different content can be changed. No specifics are provided about any means of "*automatically completing fields within said new content record*" or "*based on information contained in the specific content as well as information about the presence of duplicate or related content which is available across the multiple devices.*" according to the Applicant's Claim 1. But, again, it must be stressed that paragraph [0140] represents new matter introduced in Lamkin after the Applicant's filing date.

A7.   Lissar Fails to Teach "Automatic Completing".

Lissar does not teach this "Automatic Completion" element of the Applicant's Claim 1 either. Therefore, the Examiner has not established a *prima facie* case of obviousness.

This element of Applicant's Claim 1 recites: "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content which is available on the multiple devices*", which is not taught by the Lissar reference.

In fact, the Examiner completely misinterprets and misapplies the Lissar reference in several respects.

The Examiner admits that the cited Lamkin published application does not teach each and every element of the Applicant's Claim 1. For example, the Examiner relies

upon Lissar with regard to automatically completing fields within the new record from information contained in the specific content as well as information about the presence of duplicate or related content.

However, Lissar is not cited by the Examiner to supply what is absent in the Lamkin provisional application no. 60/531,565, as discussed in previous sections of this response. For example, nothing from the Lissar reference is relied upon by the Examiner as teaching "*receiving new content submitted by a user, for which no record exists, associated with a request submitted by the user*". This is also true with regard to several other elements of the Applicant's Claim 1. Therefore, the cited combination fails to render Applicant's Claim 1 obvious.

Notwithstanding that the rejection should be withdrawn on the basis of the discussion above, the Applicant will now address what the Examiner considers is taught by the Lissar reference in relation to the cited combination. More specifically, the Examiner asserts that "*Lissar discloses automatically completing fields within the record (column 2, lines 57-67 and column 10, lines 14-28).*"

However, it will be seen that Applicant's Claim 1 recites numerous cooperative elements which are not subsumed under the Examiner's generalization about "*automatically completing fields*". It will be appreciated that the Examiner cannot rewrite the Applicant's claims into the Examiner's version of a general concept or idea, and that the claims must be examined in their entirety. Therefore it is immaterial if a contention can be made that portions of an invention utilize similar concepts; it is the embodiments recited in the claims that must be examined.

Before moving on to the specifics, it should be recognized that the Applicant's Claim 1 recites NUMEROUS cooperative elements regarding "*automatic completion*", which is why the Applicant recites the "*automatic completing fields*" in the manner above with a number of the necessary relationships also recited in the claims. It will be recognized that the Applicant is not seeking to patent all manners of invention which includes any form of "*record completion*", but specific embodiments recited in the

claims. The Examiner, however, fails to consider the Applicant's claim as a whole and tries to consider piecemeal "concepts" and compare these against the cited references.

Moving on to the specifics of the Lissar reference, the Examiner asserts that Lissar teaches "*automatically completing fields*", which the Examiner's conceptual generalization of the Applicant claim, and the Examiner refers to portions of Lissar in support of the rejection. However, the Examiner does not discuss those portions of the Lissar reference or how they supposedly teach all the necessary elements relating to completing the fields as recited in the Applicant's claims. Again, the Examiner attempts to distill the Applicant's claim language down to a gist or thrust which is contrary to the MPEP and case law.

More particularly, the Examiner cites the following portions of the Lissar reference, found at column 3, lines 56-67:

> Another aspect of the present invention provides <u>reading, during data entry of fields in a record (for example, a new record), data of other fields and/or records in a database to automatically provide suggestions for inputting data into (i.e., filling or completing) other fields of the record being entered or automatically filling the other fields of the record being entered</u>. In particular, the present invention provides **while entering data into a field of a record**, to search the database for **<u>fields similar to or associated with the entered field</u>** to fill with data other fields of the record being entered, allowing automatic real-time intelligent data entry.

The Applicant fails to see how Lissar's comments on a text data entry procedure has any bearing on the automatic completion of the fields as recited in Applicant's Claim 1, which recites specific language and interoperability. It will be noted that Lissar is discussing a process performed during manual data entry and involves looking for "*fields similar to or associated with the entered field*"; Lissar does not discuss "*completing fields within said new content record based on information contained in the new content*". The Examiner clearly misinterprets and misapplies these portions of Lissar and provides no basis for equating Lissar's teachings to the recitations of the Applicant's Claim 1.

It should also be noted that Applicant's Claim 1 recites "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content which is available on the multiple devices; wherein new content without an existing record is compared with existing content having a corresponding record, and if the new content is at least similar to existing content, then the records from the existing content are utilized in completing the fields of the new content; and updating the records of duplicate or related content with information about the new content associated with said new content record to synchronize all the content records.*" The above elements and interrelations are not taught by Lissar, nor are they taught by Lamkin, nor has the Examiner provided any basis for which the combination of Lissar and Lamkin would provide *prima facie* support for an obviousness rejection.

The Examiner also refers to column 10, lines 14-28 of Lissar which reads:

> "*The data entry process 500 pre-compares, <u>during data entry of fields in a record</u>, for example, by a user and/or a process, data of other fields and/or records in database 510 to <u>automatically provide data input suggestions (i.e., filling or completing) for fields of the record being entered or automatically filling the fields of the record being entered</u>. In particular, the data entry process 500, while entering data into a field of a record of the database 510, performs a pre-comparing process <u>by searching the database 510 for fields similar to or associated with the entered field</u>. Based upon the pre-comparing process, the data entry process 500 can either fill other fields of the current active record being entered with the similar data and/or offer the similar data as a starting point to fill the other fields of the current active record being entered.*"

However, the above language describes a "*data entry process*" and does not relate to "*receiving new content for which no record exists, associated with a request submitted by a user.*" Note that, in performing this data entry process of Lissar, the record is already created and the data entry person is filling in the fields of the record. In contrast, the Applicant's Claim 1 recites "*new content without an existing record is compared with existing content having a corresponding record.*" Lissar does not teach

that elements of the Applicant's Claim 1 but, instead, teaches a mechanism for filling a field within a record. In addition, Lissar speaks of checking "*fields*" from other records. It is clear that Lissar does not teach what it is being relied upon to teach.

Applicant's Claim 1 recites that the "*new content without an existing record is compared with existing content having a corresponding record*", so it is the content portion being compared <u>and not the fields within a record associated with a piece of content as in Lissar</u>. The Lissar reference points to the record itself as the content, however, which does not meet the limitations of the Applicant's Claim 1.

In addition, there is nothing in the Lamkin / Lissar combination that teaches using information from related content which is "*available across the multiple devices*", as recited in the Applicant's Claim 1.

A8.   <u>Combination Fails to Support "Updating the Records" Aspect.</u>

The Lamkin / Lissar combination fails to support "*updating the records of duplicate or related content with information about the specific content associated with said new content record to synchronize all the content records*" as recited in the Applicant's Claim 1.

Paragraph [0132] of the later filed (non-prior art) Lamkin reference (2006/0159109) is duplicated in support of this aspect of the invention, while no discussion is presented as to how this supports the rejection of the above claim element.

More problematic is that NO teachings have been advanced from the earlier filed Lamkin provisional application (60/531,565) in support of this aspect of the invention. Nothing is advanced in the rejection and Applicant was unable to find teachings within the earlier filed Lamkin reference which supported the teachings of paragraph [0132].

Consequently, the Lamkin / Lissar combination does not teach or suggest all of elements of the Applicant's Claim 1 and the Examiner has not established *prima facie* obviousness. As provided in the following section of the MPEP,

2143.03 All Claim Limitations Must Be Taught or Suggested

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

a rejection is not proper if all of the elements of the claim are not taught or suggested.

A9.   Combination is Improper.

As has been shown, the teachings of the Lamkin and Lissar reference are directed to different objects and operating principles, wherein combining these references is contrary to the following provisions of MPEP 2143.01, duplicated below.

"VI. THE PROPOSED MODIFICATION CANNOT CHANGE THE PRINCIPLE OF OPERATION OF A REFERENCE

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)."

As has been discussed already, Lamkin is directed to the object of allowing the user to search and find media content, which differs from the process of receiving the new content submitted by a user as found in the Applicant's Claim 1 and others. While Lissar teaches filling out forms during data entry and is not directed to similar aspects as Lamkin.

A10.   Rationale for Combination is Not Explicit.

Also, As provided in MPEP § 2142, the Supreme Court in KSR International Co. v. Teleflex Inc. 82 USPQ2d 1385, 1396 (2007) specified that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *"[R]ejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some*

articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

Furthermore, the Examiner must make *"explicit"* this rationale of *"the apparent reason to combine the known elements in the fashion claimed,"* including a detailed explanation of *"the effects or demands known to the design community or present in the marketplace"* and *"the background knowledge possessed by a person having ordinary skill in the art"* (KSR, page 14).

In support of the combination between Lamkin and Lissar the rejection asserts the following: *"Lamkin and Lissar are analogous art because they are from the same field of endeavor of content management. It would have been obvious to one or ordinary skill in the art at the time of the invention to incorporate Lissar's teachings into the Lamkin system. A skilled artisan would have been motivated to combine in order to allow for an increase within the integrity of the data. Thus, allowing for a more efficient and user-friendly system."*

However, nothing is described regarding how one would combine the text entry system of Lissar with the "*Personalization Services For Entities From Multiple Sources*" as described by the earlier Lamkin reference. The discussions above of these references indicate that they are directed to different objects and operating principles. The rejection also fails to discuss particulars as to how these reference could be combined without making them unsuitable for their intended purposes. The mere recitation of a purported benefit which could be applied to <u>any asserted combination</u> does not constitute a detailed explanation according to legal precedence.

Specifically, the Examiner provides no support for why one would receive an element of new content submitted from the user when attempting to search for content within the database for the user as has been discussed in the above portions of the rejection. In addition, the references are silent on creating a new content record and comparing the new content with duplicate or related content for which a record exists across multiple devices and completing the new content record based on that

information.

 Lissar is directed at different objects, specifically data entry, wherein fields in an already created record are being filled in by a data entry person who is given a choice of field entries or can change what has been automatically filled based on values for that field in other records; and not on the new content itself. The value of receiving and comparing the new content is only recognized in the context of the instant application and the claims directed thereto. Merely asserting that a benefit of the modification exists, as done in the rejection, does not provide the "*articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness,*" required under KSR. By definition, every patentable invention must be "*beneficial*" – and arguendo every invention contemplates at least some new benefit(s) in arriving at the invention - certainly this does not render the benefit obvious or expected. No supporting documentation has been advanced to support the rationale.

 Because every modification or element has a corresponding use or benefit, the Examiner rationale for the combination could be applied to any improvement. It appears therefore that "*hindsight construction*" may have played a leading role in arriving at the present ground for rejection in the Office Action - which though difficult perhaps to avoid in many cases, is nonetheless impermissible in making a prima facie showing of obviousness.

 According to MPEP §2142, "*the examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness.*"

 Therefore, the Applicant respectfully submits that Lamkin and Lissar, considered either separately or in combination with one another and what is known in the art, does not teach or suggest all of the elements of the Applicant's Claim 1. Accordingly, the Applicant respectfully requests that the rejection of Claim 1, and the claims that depend therefrom, be withdrawn and that those

claims be allowed.

B. Dependent Claim 2.

Dependent Claim 2 depends from an independent parent claims whose patentability has been demonstrated above.

As the Examiner has not provided any additional support for a rejection of the parent claim, whereby Claim 2 is patentable for at least the reason that their base claim (Claim 1) is patentable as discussed above.

In support of the rejection of Claim 2, the Examiner has inserted paragraph numbers from the later filed (non-prior art) Lamkin into a listing of Claim 2, but has provided no discussion or analysis whatsoever. Additionally, the Examiner provides no searching comparison of these claims with the cited references, and in fact only references paragraph and line numbers from Lamkin which do not support the rejection. Applicant recognizes that the mere insertion of paragraph numbers does not constitute a "*searching comparison*" with the references and thus fails to establish a *prima facie* case of obviousness.

In view of the above, no *prima facie* case of obviousness has been made out in regard to Claim 2, wherein technically there is nothing to traverse or rebut. Although, the following will discuss these portions of the reference in regard to what the Applicant sees from these sections.

Dependent Claim 2 recites:

> *A method as recited in claim 1, further comprising:*
> *receiving a copy, delete, or print request from a user corresponding to specific content within the existing content wherein duplicates of said specific content, or related to said specific content, are retained on a device across multiple devices configured for communicating with one another over a network;*
> *reviewing a record associated with the specific content in response to the request and analyzing the associated record to determine what duplicate or related content is available across the multiple devices;*
> *transmitting a confirmation for the request in response to detecting the presence of any duplicate or related content; and*

> *performing the request in response to receiving the request and instructions from the user in responding to said confirmation.*

The rejection lists paragraphs from the <u>later filed</u> (non-prior art) Lamkin reference: (1) paragraphs [0092] lines 1-6; (2) paragraphs [0118], [0139]; (3) paragraphs [0123] lines 12-19, [0133], [0139], and (4) paragraphs [0123] lines 12-19, [0133] lines 37-39, [0139], respective to each of the four elements of the claim.

However, as discussed already, the later filed (non-prior art) Lamkin reference is a significant departure from the Lamkin provisional. Examiner has not shown where these aspects are supported from the earlier-filed Lamkin provisional, and Applicant has been unable to find support therein for each of these elements.

In particular, Applicant finds nothing regarding reviewing records which are analyzed to determine what duplicate or related content is available within the Claim 2 element of "*reviewing a record associated with the specific content in response to the request and analyzing the associated record to determine what duplicate or related content is available across the multiple devices*". Searching on key words, including "record", nothing was found in the Lamkin provisional discussing any such record structure or activity. As discussed in regard to Claim 1, the "new content" discussed in the Lamkin provisional relates to content which is "new" to the user, and is being collected with existing records. In the context of Applicant claims the "new content" is received from the user (so not new to the user) and is new to the system, and handled in a particular manner according to Applicant claims.

In addition, Applicant finds nothing in the earlier Lamkin reference regarding "*transmitting a confirmation for the request in response to detecting the presence of any duplicate or related content*" and of "*performing the request in response to receiving the request and instructions from the user in responding to said confirmation*". Nothing pertinent was found in searching for keywords "*confirm*", "*confirmation*", "*transmit*", "*duplicate*", and so forth.

Although it has been established that teachings from the later filed Lamkin reference are not prior art (because filed after the instant application) unless supported by the earlier filed Lamkin reference; it is interesting to note that even the paragraphs listed from the later filed Lamkin reference do not teach these aspects of the invention. As the Examiner has failed to support the rejection by discussing these paragraphs, the Applicant is forced to opine on what is seen in these paragraphs as follows.

In paragraph [0092] Applicant sees a discussion of the user operating on content "*Utilizing the command options 524 the user can distribute, delete, archive, copy, and/or convert (e.g., transrate, transpose, and otherwise convert the content, typically for storing and or distribution) the content.*" Yet, nothing is found in the paragraph related to "*wherein duplicates of said specific content, or related to said specific content, are retained on a device across multiple devices configured for communicating with one another over a network*", is merely mentions "*A pull-down menu can be displayed listing devices of the network. Typically, the list includes only those devices capable of receiving and/or utilizing the type of content*"; and NOT the devices containing duplicates of the associated content.

In paragraphs [0118]-[0119] of the later Lamkin reference, Applicant finds a discussion of content distribution based on the "type of content", and discusses whether this type of similar or related content "was received in the past"; it is not determining "*what duplicate or related content is available across the multiple devices*" as required by this element of the instant claim. In paragraph [0139] Applicant sees discussion of "*whether to delete duplicate copies of the content*" however, it describes this in terms of a database at the player which appears for "*indicating that the content was viewed at one time*"; which does not relate to the mechanisms described in Claim 2 and its parent claim. In addition, it will be noted that the word "duplicate" does even appear in the earlier filed Lamkin reference, wherein there clearly appears to be lack of support.

Regarding the other paragraphs, Applicant similar finds no consonance between the teachings in this later Lamkin reference and what is described in the claims.

Accordingly, the rejection clearly fails to make out a prima facie case of obviousness against Claim 2 as no teachings have been discussed from the cited reference which teaches the elements of the dependent claim, and which is supported from the earlier Lamkin provisional.

Therefore, Applicant respectfully requests that the rejection of Claim 2 be withdrawn and the claim allowed to issue.

C.   Dependent Claim 3.

Dependent Claim 3 depends from an independent parent claims whose patentability has been demonstrated above.

As the Examiner has not provided any additional support for a rejection of the parent claim, whereby Claim 3 is patentable for at least the reason that their base claim (Claim 1) is patentable as discussed above.

In support of the rejection of Claim 3, the Examiner has inserted paragraph numbers into a listing of Claim 3, but again has provided no discussion or analysis whatsoever. Additionally, the Examiner provides no searching comparison of these claims with the cited references, and in fact only references paragraph and line numbers from Lamkin which do not support the rejection. Applicant recognizes that the mere insertion of paragraph numbers does not constitute a "*searching comparison*" with the references and thus fails to establish a *prima facie* case of obviousness.

In view of the above, no *prima facie* case of obviousness has been made out in regard to Claim 3, wherein technically there is nothing to traverse or rebut. Although, the following will discuss these portions of the reference in regard to what the Applicant sees from these sections.

Dependent Claim 3 recites:

A method as recited in claim 1, further comprising:
receiving a copy, delete, or print request from a user corresponding to said specific content within the existing content wherein duplicates of said specific

> content, or related to said specific content, are retained on a device across
> multiple devices configured for communicating with one another over a network;
>   reviewing a record associated with the specific content in response to the
> request and analyzing the associated record to determine what duplicate or
> related content is available across the multiple devices; and
>   determining utilization of any duplicate or related content based on a pre-
> established preference and the type of request which was received.

The rejection lists paragraphs from the later filed (non-prior art) Lamkin reference: (1)

paragraphs [0092] lines 1-6; (2) paragraphs [0118], [0139]; (3) paragraphs [0157]

[0320], respective to each of the four elements of the claim.

However, as discussed already, the later filed (non-prior art) Lamkin reference is

a significant departure from the Lamkin provisional. Examiner has not shown where

these aspects are supported from the earlier-filed Lamkin provisional, and Applicant has

been unable to find support therein for each of these elements.

As the first two elements of Claim 3 are identical to that of Claim 2, they are not

obvious in view of the listed paragraphs of the later filed Lamkin reference as described

above. The third element of Claim 3 is discussed as follows.

Paragraphs [0157] and [0320] from the later filed (non-prior art) Lamkin reference

are advanced as teachings these aspects of the invention. Applicant finds Metadata

descriptions of content in paragraph [0157], as in "There can be different categories of

metadata", yet sees nothing which could be considered "determining utilization of any

duplicate or related content based on a pre-established preference" as recited in Claim

3 while nothing is seen regarding "the type of request which was received" from the

user. In paragraph [0320] Applicant finds a description of "personalizeable services"

which mentions "user preference data". However, Applicant is not attempting to patent

anything which uses "preferences", but a specific structure which uses these

preferences in a specific manner as recited in the Applicant claims. Paragraph [0320]

provides no discussion of "duplicate or related content", and the "preferences" do not

relate to the interoperability recited in this claim and its parent.

And it should not be forgotten, that what is found in the later filed (non-prior art) Lamkin reference is immaterial unless supported from the earlier filed Lamkin provisional, and nothing has been advanced in support of these aspects from that provisional.

Accordingly, the rejection clearly fails to make out a *prima facie* case of obviousness against Claim 3 as no teachings have been discussed from the cited reference which teaches the elements of the dependent claim, and which is supported from the earlier Lamkin provisional.

Therefore, Applicant respectfully requests that the rejection of Claim 3 be withdrawn and the claim allowed to issue.

D.   Dependent Claim 4.

Dependent Claim 4 depends from an independent parent claims whose patentability has been demonstrated above.

As the Examiner has not provided any additional support for a rejection of the parent claim, whereby Claim 4 is patentable for at least the reason that their base claim (Claim 1) is patentable as discussed above.

The Examiner has rejected Claim 4 on the basis of dependent Claim 3, however, Claim 4 does not have any common elements with Claim 3, except for the same parent Claim.

Therefore, nothing is put forth in support of the rejection of dependent Claim 4. This is not surprising as the Examiner has also failed to provide any evidence regarding similar elements recited within independent Claims 17 and 24-28.

Therefore, as no *prima facie* case of obviousness has been set forth against Claim 4, Applicant respectfully requests that the rejection of Claim 4 be withdrawn.

E.   Dependent Claim 6.

Dependent Claim 6 depends from an independent parent claims whose patentability has been demonstrated above.

As the Examiner has not provided any additional support for a rejection of the parent claim, whereby Claim 6 is patentable for at least the reason that their base claim (Claim 1) is patentable as discussed above.

As the sole support of the rejection of Claim 6, the Examiner has listed paragraph number [0091] of the later filed (non-prior art) Lamkin reference, but once again provides no discussion or analysis whatsoever, and no searching comparison of this claim with the cited references.

In view of the above, no *prima facie* case of obviousness has been made out in regard to Claim 6, wherein technically there is nothing to traverse or rebut. Although, the following will discuss these portions of the reference in regard to what the Applicant sees from these sections.

Dependent Claim 6 recites:

A method as recited in claim 1, wherein each content record includes a field for indicating other content related to content associated with the content record.

However, as discussed already, the later filed (non-prior art) Lamkin reference is a significant departure from the Lamkin provisional. Examiner has not shown where these aspects are supported from the earlier-filed Lamkin provisional, and Applicant has been unable to find support therein for each of these elements.

Paragraphs [0091] from the later filed (non-prior art) Lamkin reference are advanced as teachings these aspects of the invention. In this paragraph Applicant finds Lamkin describing providing other information to the user, as in "*Other information can be provided to the user through the user interface 520 to allow the user to more accurately determine how to distribute the content*". Applicant sees nothing, however, which would seem to comport to a "*content record*" and a "*field*" therein "*for indicating*

other content related to content associated with the content record". Accordingly, the Examiner has not been able to support the rejection.

And it should not be forgotten, that what is found in the later filed (non-prior art) Lamkin reference is immaterial unless supported from the earlier filed Lamkin provisional, and nothing has been advanced in support of these aspects from that provisional. Applicant was unable to even find the phrase "*content type*" within the earlier filed Lamkin reference, and has seen nothing which would obviate Claim 6.

Accordingly, the rejection clearly fails to make out a *prima facie* case of obviousness against Claim 6 as no teachings have been discussed from the cited reference which teaches the elements of the dependent claim, and which is supported from the earlier Lamkin provisional.

Therefore, Applicant respectfully requests that the rejection of Claim 6 be withdrawn and the claim allowed to issue.

F.   Independent Claim 10.

Independent Claim 10 provides a similar scope as Claim 1 discussed above, but recited in a means-plus-function format. The Examiner rejected all independent Claims 1, 10, 17 and 24-28 on the basis of the same argument against Claim 1. It has been shown in relation to Claim 1, that this rejection suffers from numerous intractable shortcomings which have been discussed at length.

Rather than duplicate the entirety of the arguments presented for Claim 1, the following will summarize the arguments as to why the elements of Claim 10 are not obvious in view of the cited combination, and discuss additional elements of Claim 10 for which no support was advanced in the rejection. The discussion from Claim 1 being considered incorporated by reference herein.

The following is a summary list of the shortcomings of the rejection which were asserted against Claim 1 which also apply to Claim 10 as well.

1. Teachings are relied-upon from the Lamkin reference (US Pub. No. 2006/0159109), which has a later filing date than the instant application, which are not supported in the earlier-filed provisional application serial number 60/531,565 of Lamkin which is relied upon for priority. Only those portions of the later Lamkin reference which are fully supported by the earlier provisional can be used in support of the rejection.

2. The combination failed to support "*receiving new content for which no record exists, associated with a request submitted by a user*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*means for receiving a request from a user to create a new content record for new content received from the user*", as recited in Applicant Claim 10. The Examiner has failed to support this aspect of the invention from the teachings of the provisional application of Lamkin (serial number 60/531,565). As described in section 1, elements introduced in the later filed Lamkin non-provisional, which were not taught in this Lamkin provisional, can not be considered prior art or relied upon in support of a rejection of the instant claims. The provisional Lamkin reference has been shown in relation to previously discussed Claim 1, to lack support for "*receiving new content for which no record exists, associated with a request submitted by the user*", and similarly lacks teaching for this element of Claim 10. It should be appreciated that the language of Claim 10 differs somewhat in regard to the request submitted by the user; in Claim 10 a request is received from the user "*to create a new content record for content received from the user*", for which support is lacking in the rejection. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

3. The combination fails to support the claim element "*reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*means for reviewing specific content within the*

new content of said new record in response to the request and comparing with duplicate or related content which is available across said multiple devices" as recited in Applicant Claim 10. The provisional Lamkin reference has been shown in relation to Claim 1 above, to lack support for this "reviewing" and "comparing" of new content, and similarly lacks teaching for this element of Claim 10. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

4. The combination fails to support the claim element "automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content which is available on the multiple devices", as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "means for automatically completing fields within said new content record in response to information contained in the specific content as well as information about said duplicate or related content which is available across the multiple devices", as recited in Applicant Claim 10. The failings of the Lissar reference have been shown, while the provisional Lamkin reference has been shown to similarly lack support for this "automatically completing fields within the new content record" as previously described in regard to Claim 1 and similarly recited in Claim 10. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

5. Paragraph numbers (e.g., paragraphs [0005], [0006], [0072], [0132], [0069], [0073], [0104], [0118-0119], [0140], and [0151]) are asserted from the later filed (non-prior art) Lamkin reference (published application 2006/0159109 filed on 12/16/2005) but no searching comparisons are made in relation to the claims at issue and support for these sections from the earlier filed Lamkin provisional was not provided. Examiner's conclusory remarks do not constitute "a searching comparison of the claimed invention" toward supporting a prima facie case of obviousness.

6. Consequently, the Lamkin / Lissar combination does not teach or suggest all of elements of Applicant's claims, including independent Claim 10, whereby the Examiner has not established a *prima facie* case of obviousness.

7. Interoperability of elements is not supported by the Lamkin / Lissar combination as seen in the discussion of the elements of Claim 1, and similarly present in Claim 10.

8. Combination of Lamkin and Lissar requires changing the principles of operation of the Lamkin reference, and thus the combination is improper for Claim 10.

9. The rationale for making the combination between Lamkin and Lissar is not explicit.

In addition, the rejection fails to address the Donaldson issues regarding the means term elements recited in Claim 10.

Therefore, in view of the lack of support for the rejection, Applicant respectfully requests that the rejection of Claim 10, and the claim which depend therefrom, be withdrawn.

G.   Independent Claim 17.

Although independent Claim 17 provides more claim detail than recited for Claims 1 and 10, the Examiner rejected all independent Claims 1, 10, 17 and 24-28 on the argument presented against Claim 1. This argument has been shown to suffer from numerous intractable shortcomings which have been discussed at length.

Rather than duplicate the entirety of the arguments presented for Claim 1, the following summarizes arguments as to why the elements of Claim 17 are not obvious in view of the cited combination, and discusses additional elements of Claim 17 for which no support was advanced in the rejection. The discussion from Claim 1 being incorporated herein by reference.

The following is a summary list of the shortcomings of the rejection which were asserted against Claim 1 which also apply to Claim 17 as well.

1. Teachings are relied-upon from the Lamkin reference (US Pub. No. 2006/0159109), which has a later filing date than the instant application, which are not supported in the earlier-filed provisional application serial number 60/531,565 of Lamkin which is relied upon for priority. Only those portions of the later Lamkin reference which are fully supported by the earlier provisional can be used in support of the rejection.

2. The combination failed to support "*receiving new content for which no record exists, associated with a request submitted by a user*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this the relied upon teachings would similarly fail to support "*an interface module configured for receiving a request submitted by a user specifying new content submitted by the user*", as recited in Applicant Claim 17. The Examiner has failed to support this aspect of the invention from the teachings of the provisional application of Lamkin (serial number 60/531,565). As described in section 1, elements introduced in the later filed Lamkin non-provisional, which were not taught in this Lamkin provisional, can not be considered prior art or relied upon in support of a rejection of the instant claims. The provisional Lamkin reference has been shown in relation to previously discussed Claim 1, to lack support for "*receiving new content for which no record exists, associated with a request submitted by the user*", and similarly lacks teaching for this element of Claim 17. It should be appreciated that Claim 17 describes this aspect in relation to an interface module which receives the request submitted by the user. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

3. The combination failed to support the claim element "*reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*a review module configured for reviewing said new content and creating a new content record corresponding to said new content*", and

"*wherein a content record is associated with existing content, with said content record having information fields for accessing the duplicate content and/or related content*" as recited in Applicant Claim 17. It will be noted that no support is advanced The provisional Lamkin reference has been shown in relation to Claim 1 above, to lack support for this "*reviewing*" and "*comparing*" of new content, and similarly lacks teaching for this element of Claim 17. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

    4. The combination fails to support the claim element "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content which is available on the multiple devices*", as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*said review module automatically completing fields within said new content record based on information contained in existing content as well as information about the presence of duplicate or related content which is available across the multiple devices*" as recited in Applicant Claim 17. The failings of the Lissar reference have been shown, while the provisional Lamkin reference has been demonstrated to similarly lack support for this "*automatically completing fields within the new content record*" as previously described in regard to Claim 1 and similarly recited in Claim 17. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

    5. Paragraph numbers (e.g., paragraphs [0005], [0006], [0072], [0132], [0069], [0073], [0104], [0118-0119], [0140], and [0151]) are asserted from the later filed (non-prior art) Lamkin reference (published application 2006/0159109 filed on 12/16/2005) but no searching comparisons are made in relation to the claims at issue and support for these sections from the earlier filed Lamkin provisional was not provided.

Examiner's conclusory remarks do not constitute "*a searching comparison of the claimed invention*" toward supporting a *prima facie* case of obviousness.

      6.   Consequently, the Lamkin / Lissar combination does not teach or suggest all of elements of Applicant's claims, including independent Claim 17, whereby the Examiner has not established a *prima facie* case of obviousness.

      7. Interoperability of elements not supported by the Lamkin / Lissar combination as seen in the discussion of the elements of Claim 1, and similarly present in Claim 17.

      8. Combination of Lamkin and Lissar requires changing the principles of operation of the Lamkin reference, and thus the combination is improper for Claim 17.

      9. Rationale for making the combination between Lamkin and Lissar is not explicit for any of the claims.

      In addition, the rejection fails to address other elements of Claim 17, including the following.

      (1) The rejection fails to provide any support for the "*interface module*" and that "*said interface module is configured for communicating over a network between one or more client devices and a server device*".

      (2) The rejection fails to provide any support for the "*wherein existing content, which is a duplicate and/or related, to said new content are retained across multiple devices configured for communicating over the network*".

      (3) The rejection fails to provide any support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing the duplicate content and/or related content*".

      (4) The rejection fails to provide any support for "*a storage module configured for storing a preference wherein the preference corresponds to types of request and includes at least one criteria for performing the request*".

      (5) The rejection fails to provide any support for "*said review module configured for analyzing existing content and a corresponding content record associated with the*

request, to find duplicate or related content that is available across the system
containing the multiple devices".

(6) The rejection fails to provide any support for "*said review module configured*
for selectively transmitting a confirmation for the request based on the analysis and the
presence of duplicate or related content and the preference for determining whether the
request is performed".

(7) The rejection fails to provide any support for "*said review module executes*
the request based on receiving the request and instruction from the user in responding
to said confirmation".

MPEP 2143.03 indicates that "To establish prima facie obviousness of a claimed
invention, all the claim limitations must be taught or suggested by the prior art."
However, the rejection has been advanced without any teachings from the references in
regard to the above 7 elements from Claim 17.

Consequently, it has been shown that the cited references do not teach what
they are purported to teach and there is a failure to teach all aspects of the cited claim,
while the references themselves cannot be properly combined.

Therefore, in view of the lack of support for the rejection, Applicant respectfully
requests that the rejection of Claim 17, and the claim which depend therefrom, be
withdrawn.

H.   Dependent Claim 18.

Dependent Claim 18 depends from independent parent Claim 17 whose
patentability has been demonstrated above.

As the Examiner has not provided any additional support for a rejection of the
parent claim, whereby Claim 18 is patentable for at least the reason that their base
claim (Claim 1) is patentable as discussed above.

The rejection of dependent Claim 18 is included in the omnibus rejection of
Claims 1, 10, 17, 18 and 24-28. No grounds are set forth for the rejection of Claim 18,

and there is NO discussion seen in the rejection regarding "*comparing an image of the new content*", and more particularly in the manner recited in Claim 18.

In view of the above, no case of obviousness has been made out in regard to Claim 18.

Dependent Claim 18 recites:

A system as recited in claim 17, further comprising a capture module configured to identify content in response to comparing an image of the new content with images contained in the existing content..

Accordingly, the rejection clearly fails to make out ANY case of obviousness against Claim 18.

Therefore, Applicant respectfully requests that the rejection of Claim 18 be withdrawn.

I.   Dependent Claim 20.

Dependent Claim 20 depends from independent parent Claim 17 whose patentability has been demonstrated above.

As the Examiner has not provided any additional support for a rejection of the parent claim, whereby Claim 20 is patentable for at least the reason that their base claim (Claim 1) is patentable as discussed above.

The rejection of dependent Claim 20 is included in the omnibus rejection of Claims 3, 4 and 20. In this rejection Examiner discusses only the material of Claim 3, and provides no support for the rejection of Claims 4 and 20. Thus, NO grounds are set forth for the rejection of Claim 20. In view of the above, no case of obviousness has been made out in regard to Claim 20.

Dependent Claim 20 recites:

A system as recited in claim 17, wherein the interface module is configured to provide a confirmation based on the criteria for performing the request as contained in said preference, said confirmation configured for confirming that the user desires to proceed with performing the request.

Accordingly, the rejection clearly fails to make out ANY case of obviousness against Claim 20.

Therefore, Applicant respectfully requests that the rejection of Claim 20 be withdrawn.

J.   Independent Claim 24.

Although independent Claim 24 provides more claim detail than recited for Claims 1 and 10, the Examiner rejected all independent Claims 1, 10, 17 and 24-28 on the argument presented against Claim 1. This argument has been shown to suffer from numerous intractable shortcomings which have been discussed at length.

Rather than duplicate the entirety of the arguments presented for Claim 1, the following summarizes arguments as to why the elements of Claim 24 are not obvious in view of the cited combination, and discusses additional elements of Claim 24 for which no support was advanced in the rejection. The discussion from Claim 1 being incorporated herein by reference.

The following is a summary list of the shortcomings of the rejection which were asserted against Claim 1 which also apply to Claim 24 as well.

1. Teachings are relied-upon from the Lamkin reference (US Pub. No. 2006/0159109), which has a later filing date than the instant application, which are not supported in the earlier-filed provisional application serial number 60/531,565 of Lamkin which is relied upon for priority. Only those portions of the later Lamkin reference which are fully supported by the earlier provisional can be used in support of the rejection.

2. The combination failed to support "*receiving new content for which no record exists, associated with a request submitted by a user*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this the relied upon teachings would similarly fail to support "*receiving a request from a user corresponding to new content submitted by the user*", as recited in Applicant Claim 24. The Examiner has

failed to support this aspect of the invention from the teachings of the provisional application of Lamkin (serial number 60/531,565). As described in section 1, elements introduced in the later filed Lamkin non-provisional, which were not taught in this Lamkin provisional, can not be considered prior art or relied upon in support of a rejection of the instant claims. The provisional Lamkin reference has been shown in relation to previously discussed Claim 1, to lack support for "*receiving new content for which no record exists, associated with a request submitted by the user*", and similarly lacks teaching for this element of Claim 24. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

3. The combination failed to support the claim element "*reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*reviewing existing content records in response to the request and analyzing the associated record to determine what duplicate or related content is available across the multiple devices*", and "*wherein a content record is associated with existing content, with said content record having information fields for accessing the duplicate content and/or related content*" as recited in Applicant Claim 24. The provisional Lamkin reference has been shown in relation to Claim 1 above, to lack support for this "*reviewing*" and "*comparing*" of new content, and similarly lacks teaching for this element of Claim 24. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

4. The combination fails to support the claim element "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content which is available on the multiple devices*", as recited in Claim 1 and discussed previously.

Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices*" as recited in Applicant Claim 24. The failings of the Lissar reference have been shown, while the provisional Lamkin reference has been demonstrated to similarly lack support for this "*automatically completing fields within the new content record*" as previously described in regard to Claim 1 and similarly recited in Claim 24. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

     5. Paragraph numbers (e.g., paragraphs [0005], [0006], [0072], [0132], [0069], [0073], [0104], [0118-0119], [0140], and [0151]) are asserted from the later filed (non-prior art) Lamkin reference (published application 2006/0159109 filed on 12/16/2005) but no searching comparisons are made in relation to the claims at issue and support for these sections from the earlier filed Lamkin provisional was not provided. Examiner's conclusory remarks do not constitute "*a searching comparison of the claimed invention*" toward supporting a *prima facie* case of obviousness.

     6. Consequently, the Lamkin / Lissar combination does not teach or suggest all of elements of Applicant's claims, including independent Claim 24, whereby the Examiner has not established a *prima facie* case of obviousness.

     7. Interoperability of elements not supported by the Lamkin / Lissar combination as seen in the discussion of the elements of Claim 1, and similarly present in Claim 24.

     8. Combination of Lamkin and Lissar requires changing the principles of operation of the Lamkin reference, and thus the combination is improper for Claim 24.

     9. The rationale for making the combination between Lamkin and Lissar is not explicit for any of the claims.

     In addition, the rejection fails to address other elements of Claim 24, including the following.

(1) The rejection fails to provide any support for the "*wherein existing content, which is a duplicate and/or related, to said new content are retained across multiple devices configured for communicating over a network*".

(2) The rejection fails to provide any support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing the duplicate content and/or related content*".

(3) The rejection fails to provide any support for "*reviewing existing content records in response to the request and analyzing the associated record to determine what duplicate or related content is available across the multiple devices*".

(4) The rejection fails to provide any support for "*selectively transmitting a confirmation for the request based on said reviewing and the presence of any duplicate or related content*".

(5) The rejection fails to provide any support for "*performing the request based on receiving the request and instruction from the user in responding to said confirmation*".

MPEP 2143.03 indicates that "*To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.*" However, the rejection has been advanced without any teachings from the references in regard to the above 5 elements from Claim 24.

Consequently, it has been shown that the cited references do not teach what they are purported to teach and there is a failure to teach all aspects of the cited claim, while the references themselves cannot be properly combined.

Therefore, in view of the lack of support for the rejection, Applicant respectfully requests that the rejection of Claim 24 be withdrawn.

K.   Independent Claim 25.

Although independent Claim 25 provides more claim detail than recited for Claims 1 and 10, the Examiner rejected all independent Claims 1, 10, 17 and 24-28 on

the argument presented against Claim 1. This argument has been shown to suffer from numerous intractable shortcomings which have been discussed at length.

Rather than duplicate the entirety of the arguments presented for Claim 1, the following summarizes arguments as to why the elements of Claim 25 are not obvious in view of the cited combination, and discusses additional elements of Claim 25 for which no support was advanced in the rejection. The discussion from Claim 1 being incorporated herein by reference.

The following is a summary list of the shortcomings of the rejection which were asserted against Claim 1 which also apply to Claim 25 as well.

1. Teachings are relied-upon from the Lamkin reference (US Pub. No. 2006/0159109), which has a later filing date than the instant application, which are not supported in the earlier-filed provisional application serial number 60/531,565 of Lamkin which is relied upon for priority. Only those portions of the later Lamkin reference which are fully supported by the earlier provisional can be used in support of the rejection.

2. The combination failed to support "*receiving new content for which no record exists, associated with a request submitted by a user*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this the relied upon teachings would similarly fail to support "*receiving a request from a user with new content submitted by the user*", as recited in Applicant Claim 25. The Examiner has failed to support this aspect of the invention from the teachings of the provisional application of Lamkin (serial number 60/531,565). As described in section 1, elements introduced in the later filed Lamkin non-provisional, which were not taught in this Lamkin provisional, can not be considered prior art or relied upon in support of a rejection of the instant claims. The provisional Lamkin reference has been shown in relation to previously discussed Claim 1, to lack support for "*receiving new content for which no record exists, associated with a request submitted by the user*", and similarly lacks teaching for this element of Claim 25. The rejection does not advance teachings from the Lissar

reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

3. The combination failed to support the claim element "*reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*analyzing the new content to find duplicate or related content that is available on devices connected to the network*", and "*wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content*" as recited in Applicant Claim 25. It will be noted that the elements in Claim 25 are different from that of Claim 1 and bring out the process of analyzing the content, which is not addressed in the rejection. The provisional Lamkin reference has been shown in relation to Claim 1 above, to lack support for this "*reviewing*" and "*comparing*" of new content, and similarly lacks teaching for this element of Claim 25. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

4. The combination fails to support the claim element "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content which is available on the multiple devices*", as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices*" as recited in Applicant Claim 25. The failings of the Lissar reference have been shown, while the provisional Lamkin reference has been demonstrated to similarly lack support for this "*automatically completing fields within the new content record*" as previously

described in regard to Claim 1 and similarly recited in Claim 25. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

5. Paragraph numbers (e.g., paragraphs [0005], [0006], [0072], [0132], [0069], [0073], [0104], [0118-0119], [0140], and [0151]) are asserted from the later filed (non-prior art) Lamkin reference (published application 2006/0159109 filed on 12/16/2005) but no searching comparisons are made in relation to the claims at issue and support for these sections from the earlier filed Lamkin provisional was not provided. Examiner's conclusory remarks do not constitute "*a searching comparison of the claimed invention*" toward supporting a *prima facie* case of obviousness.

6. Consequently, the Lamkin / Lissar combination does not teach or suggest all of elements of Applicant's claims, including independent Claim 25, whereby the Examiner has not established a *prima facie* case of obviousness.

7. Interoperability of elements not supported by the Lamkin / Lissar combination as seen in the discussion of the elements of Claim 1, and similarly present in Claim 25.

8. Combination of Lamkin and Lissar requires changing the principles of operation of the Lamkin reference, and thus the combination is improper for Claim 25.

9. Rationale for making the combination between Lamkin and Lissar is not explicit for any of the claims.

In addition, the rejection fails to address other elements of Claim 25, including the following.

(1) The rejection fails to provide any support for the "*said new content along with existing duplicate content, and/or related content are retained across multiple client devices configured for communicating over the network*".

(2) The rejection fails to provide any support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing the duplicate content and/or related content*".

Appl. No.:   10/771,805
Filing Date: 02/04/2004
Appealed: 06/30/2010
Appeal Brief Dated: 08/30/2010
Tech. Center: 2161

(3) The rejection fails to provide any support for "*reviewing existing content records in response to the request and analyzing the associated record to determine what duplicate or related content is available across the multiple devices*".

(4) The rejection fails to provide any support for "*selectively transmitting a confirmation for the request based on said reviewing and the presence of any duplicate or related content*".

(5) The rejection fails to provide any support for "*performing the request based on receiving the request and instruction from the user in responding to said confirmation*".

MPEP 2143.03 indicates that "*To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.*" However, the rejection has been advanced without any teachings from the references in regard to the above 5 elements from Claim 25.

Consequently, it has been shown that the cited references do not teach what they are purported to teach and there is a failure to teach all aspects of the cited claim, while the references themselves cannot be properly combined.

Therefore, in view of the lack of support for the rejection, Applicant respectfully requests that the rejection of Claim 25 be withdrawn.

L.   Independent Claim 26.

Although independent Claim 26 provides more claim detail than recited for Claims 1 and 10, the Examiner rejected all independent Claims 1, 10, 17 and 24-28 on the argument presented against Claim 1. This argument has been shown to suffer from numerous intractable shortcomings which have been discussed at length.

So as not to duplicate the entirety of the arguments presented for Claim 1, the following summarizes arguments as to why the elements of Claim 26 are not obvious in view of the cited combination, and discusses additional elements of Claim 26 for which

no support was advanced in the rejection. The discussion from Claim 1 being incorporated herein by reference.

The following is a summary list of the shortcomings of the rejection which were asserted against Claim 1 which also apply to Claim 26 as well.

1. Teachings are relied-upon from the Lamkin reference (US Pub. No. 2006/0159109), which has a later filing date than the instant application, which are not supported in the earlier-filed provisional application serial number 60/531,565 of Lamkin which is relied upon for priority. Only those portions of the later Lamkin reference which are fully supported by the earlier provisional can be used in support of the rejection.

2. The combination failed to support "*receiving new content for which no record exists, associated with a request submitted by a user*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this the relied upon teachings would similarly fail to support "*receiving a request from a user with new content submitted by the user*", as recited in Applicant Claim 26. The Examiner has failed to support this aspect of the invention from the teachings of the provisional application of Lamkin (serial number 60/531,565). As described in section 1, elements introduced in the later filed Lamkin non-provisional, which were not taught in this Lamkin provisional, can not be considered prior art or relied upon in support of a rejection of the instant claims. The provisional Lamkin reference has been shown in relation to previously discussed Claim 1, to lack support for "*receiving new content for which no record exists, associated with a request submitted by the user*", and similarly lacks teaching for this element of Claim 26. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

3. The combination failed to support the claim element "*reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon

teachings would similarly fail to support "*wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content*" and "*analyzing the new content to find duplicate or related content that is available on devices connected to the network*" as recited in Applicant Claim 26. It will be noted that the elements in Claim 26 are different from that of Claim 1 and bring out the process of analyzing the content, which is not addressed in the rejection. The provisional Lamkin reference has been shown in relation to Claim 1 above, to lack support for this "*reviewing*" and "*comparing*" of new content, and similarly lacks teaching for this element of Claim 26. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

    4. The combination fails to support the claim element "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content which is available on the multiple devices*", as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices*" as recited in Applicant Claim 26. The failings of the Lissar reference have been shown, while the provisional Lamkin reference has been demonstrated to similarly lack support for this "*automatically completing fields within the new content record*" as previously described in regard to Claim 1 and similarly recited in Claim 26. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

    5. Paragraph numbers (e.g., paragraphs [0005], [0006], [0072], [0132], [0069], [0073], [0104], [0118-0119], [0140], and [0151]) are asserted from the later filed (non-prior art) Lamkin reference (published application 2006/0159109 filed on 12/16/2005)

but no searching comparisons are made in relation to the claims at issue and support for these sections from the earlier filed Lamkin provisional was not provided. Examiner's conclusory remarks do not constitute "*a searching comparison of the claimed invention*" toward supporting a *prima facie* case of obviousness.

 6. Consequently, the Lamkin / Lissar combination does not teach or suggest all of elements of Applicant's claims, including independent Claim 26, whereby the Examiner has not established a *prima facie* case of obviousness.

 7. Interoperability of elements not supported by the Lamkin / Lissar combination as seen in the discussion of the elements of Claim 1, and similarly present in Claim 26.

 8. Combination of Lamkin and Lissar requires changing the principles of operation of the Lamkin reference, and thus the combination is improper for Claim 26.

 9. Rationale for making the combination between Lamkin and Lissar is not explicit for any of the claims.

 In addition, the rejection fails to address other elements of Claim 26, including the following.

 (1) The rejection fails to provide any support for "*storing a preference setting for one or more types of requests, said preference including at least one criteria for performing the request*".

 (2) The rejection fails to provide any support for the "*said new content along with existing duplicate content, and/or related content are retained across multiple client devices configured for communicating over the network*".

 (3) The rejection fails to provide any support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content*".

 (4) The rejection fails to provide any support for "*transmitting a confirmation for the request based on the preference setting when duplicate or related content is available*".

(5) The rejection fails to provide any support for "*receiving instruction from the preference setting, and/or from the user in responding to said confirmation, as to how to execute said request*" and "*executing the request in response to said instruction*".

MPEP 2143.03 indicates that "*To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.*" However, the rejection has been advanced without any teachings from the references in regard to the above 5 elements from Claim 26.

Consequently, it has been shown that the cited references do not teach what they are purported to teach and there is a failure to teach all aspects of the cited claim, while the references themselves cannot be properly combined.

Therefore, in view of the lack of support for the rejection, Applicant respectfully requests that the rejection of Claim 26 be withdrawn.

M.   Independent Claim 27.

Although independent Claim 27 provides more claim detail than recited for Claims 1 and 10, the Examiner rejected all independent Claims 1, 10, 17 and 24-28 on the argument presented against Claim 1. This argument has been shown to suffer from numerous intractable shortcomings which have been discussed at length.

So as not to duplicate the entirety of the arguments presented for Claim 1, the following summarizes arguments as to why the elements of Claim 27 are not obvious in view of the cited combination, and discusses additional elements of Claim 27 for which no support was advanced in the rejection. The discussion from Claim 1 being incorporated herein by reference.

The following is a summary list of the shortcomings of the rejection which were asserted against Claim 1 which also apply to Claim 27 as well.

1. Teachings are relied-upon from the Lamkin reference (US Pub. No. 2006/0159109), which has a later filing date than the instant application, which are not supported in the earlier-filed provisional application serial number 60/531,565 of Lamkin

which is relied upon for priority. Only those portions of the later Lamkin reference which are fully supported by the earlier provisional can be used in support of the rejection.

    2. The combination failed to support "*receiving new content for which no record exists, associated with a request submitted by a user*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this the relied upon teachings would similarly fail to support "*receiving a request from a user with new content submitted by the user*", as recited in Applicant Claim 27. The Examiner has failed to support this aspect of the invention from the teachings of the provisional application of Lamkin (serial number 60/531,565). As described in section 1, elements introduced in the later filed Lamkin non-provisional, which were not taught in this Lamkin provisional, can not be considered prior art or relied upon in support of a rejection of the instant claims. The provisional Lamkin reference has been shown in relation to previously discussed Claim 1, to lack support for "*receiving new content for which no record exists, associated with a request submitted by the user*", and similarly lacks teaching for this element of Claim 27. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

    3. The combination failed to support the claim element "*reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content*" and "*analyzing an image in the new content to find images of duplicate or related content in the existing content that is available on servers and/or client devices connected to the network*" as recited in Applicant Claim 27. It will be noted that the elements in Claim 27 are different from that of Claim 1 and bring out the process of analyzing the content, which is not addressed in the rejection.

The provisional Lamkin reference has been shown in relation to Claim 1 above, to lack support for this "*reviewing*" and "*comparing*" of new content, and similarly lacks teaching for this element of Claim 27. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

4. The combination fails to support the claim element "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content which is available on the multiple devices*", as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content*" as recited in Applicant Claim 27. The failings of the Lissar reference have been shown, while the provisional Lamkin reference has been demonstrated to similarly lack support for this "*automatically completing fields within the new content record*" as previously described in regard to Claim 1 and similarly recited in Claim 27. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

5. Paragraph numbers (e.g., paragraphs [0005], [0006], [0072], [0132], [0069], [0073], [0104], [0118-0119], [0140], and [0151]) are asserted from the later filed (non-prior art) Lamkin reference (published application 2006/0159109 filed on 12/16/2005) but no searching comparisons are made in relation to the claims at issue and support for these sections from the earlier filed Lamkin provisional was not provided. Examiner's conclusory remarks do not constitute "*a searching comparison of the claimed invention*" toward supporting a *prima facie* case of obviousness.

6. Consequently, the Lamkin / Lissar combination does not teach or suggest all of elements of Applicant's claims, including independent Claim 27, whereby the Examiner has not established a *prima facie* case of obviousness.

7. Interoperability of elements not supported by the Lamkin / Lissar combination as seen in the discussion of the elements of Claim 1, and similarly present in Claim 27.

8. Combination of Lamkin and Lissar requires changing the principles of operation of the Lamkin reference, and thus the combination is improper for Claim 27.

9. Rationale for making the combination between Lamkin and Lissar is not explicit for any of the claims.

In addition, the rejection fails to address other elements of Claim 27, including the following.

(1) The rejection fails to provide any support for the "*said new content along with existing duplicate content, and/or related content are retained across the server and/or multiple client devices configured for communicating over the network*".

(2) The rejection fails to provide any support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content*".

(3) The rejection fails to provide any support for "*analyzing an image in the new content*" within the claim element "*analyzing an image in the new content to find images of duplicate or related content in the existing content that is available on servers and/or client devices connected to the network*".

(4) The rejection fails to provide any support for "*transmitting a confirmation for the request when duplicate or related content is available*".

(5) The rejection fails to provide any support for "*receiving instruction from the user in responding to said confirmation, executing the request based on said instruction*".

MEP 2143.03 indicates that "*To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.*"

However, the rejection has been advanced without any teachings from the references in regard to the above 5 elements from Claim 27.

Consequently, it has been shown that the cited references do not teach what they are purported to teach and there is a failure to teach all aspects of the cited claim, while the references themselves cannot be properly combined.

Therefore, in view of the lack of support for the rejection, Applicant respectfully requests that the rejection of Claim 27 be withdrawn.

N.   Independent Claim 28.

Although independent Claim 28 provides more claim detail than recited for Claims 1 and 10, the Examiner rejected all independent Claims 1, 10, 17 and 24-28 on the argument presented against Claim 1. This argument has been shown to suffer from numerous intractable shortcomings which have been discussed at length.

So as not to duplicate the entirety of the arguments presented for Claim 1, the following summarizes arguments as to why the elements of Claim 28 are not obvious in view of the cited combination, and discusses additional elements of Claim 28 for which no support was advanced in the rejection. The discussion from Claim 1 being incorporated herein by reference.

The following is a summary list of the shortcomings of the rejection which were asserted against Claim 1 which also apply to Claim 28 as well.

1. Teachings are relied-upon from the Lamkin reference (US Pub. No. 2006/0159109), which has a later filing date than the instant application, which are not supported in the earlier-filed provisional application serial number 60/531,565 of Lamkin which is relied upon for priority. Only those portions of the later Lamkin reference which are fully supported by the earlier provisional can be used in support of the rejection.

2. The combination failed to support "*receiving new content for which no record exists, associated with a request submitted by a user*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this the relied upon teachings would similarly fail to support "*receiving a request from a user with new content submitted by the user*", as recited in Applicant Claim 28. The Examiner has failed to

support this aspect of the invention from the teachings of the provisional application of Lamkin (serial number 60/531,565). As described in section 1, elements introduced in the later filed Lamkin non-provisional, which were not taught in this Lamkin provisional, can not be considered prior art or relied upon in support of a rejection of the instant claims. The provisional Lamkin reference has been shown in relation to previously discussed Claim 1, to lack support for "*receiving new content for which no record exists, associated with a request submitted by the user*", and similarly lacks teaching for this element of Claim 28. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

      3. The combination failed to support the claim element "*reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content*" as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content*" and "*analyzing the new content to find duplicate or related content that is retained on client devices connected to the network*" as recited in Applicant Claim 28. It will be noted that the elements in Claim 28 are different from that of Claim 1 and bring out the process of analyzing the content, which is not addressed in the rejection. The provisional Lamkin reference has been shown in relation to Claim 1 above, to lack support for this "*reviewing*" and "*comparing*" of new content, and similarly lacks teaching for this element of Claim 28. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

      4. The combination fails to support the claim element "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content which is*

available on the multiple devices", as recited in Claim 1 and discussed previously. Applicant asserts that in view of this, the relied upon teachings would similarly fail to support "*automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices*" as recited in Applicant Claim 28. The failings of the Lissar reference have been shown, while the provisional Lamkin reference has been demonstrated to similarly lack support for this "*automatically completing fields within the new content record*" as previously described in regard to Claim 1 and similarly recited in Claim 28. The rejection does not advance teachings from the Lissar reference or what is known in the art to overcome this shortcoming of the Lamkin reference.

 5. Paragraph numbers (e.g., paragraphs [0005], [0006], [0072], [0132], [0069], [0073], [0104], [0118-0119], [0140], and [0151]) are asserted from the later filed (non-prior art) Lamkin reference (published application 2006/0159109 filed on 12/16/2005) but no searching comparisons are made in relation to the claims at issue and support for these sections from the earlier filed Lamkin provisional was not provided. Examiner's conclusory remarks do not constitute "*a searching comparison of the claimed invention*" toward supporting a *prima facie* case of obviousness.

 6. Consequently, the Lamkin / Lissar combination does not teach or suggest all of elements of Applicant's claims, including independent Claim 28, whereby the Examiner has not established a *prima facie* case of obviousness.

 7. Interoperability of elements not supported by the Lamkin / Lissar combination as seen in the discussion of the elements of Claim 1, and similarly present in Claim 28.

 8. Combination of Lamkin and Lissar requires changing the principles of operation of the Lamkin reference, and thus the combination is improper for Claim 28.

 9. Rationale for making the combination between Lamkin and Lissar is not explicit for any of the claims.

In addition, the rejection fails to address other elements of Claim 28, including the following.

(1) The rejection fails to provide any support for the "*said new content along with existing duplicate content, and/or related content are retained across said server and at least one said client device configured for communicating over the network*".

(2) The rejection fails to provide any support for "*wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content*".

(3) The rejection fails to provide any support for "*automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content*".

(4) The rejection fails to provide any support for "*transmitting a confirmation for the request when duplicate or related content is available*".

(5) The rejection fails to provide any support for "*receiving instruction from the user in responding to said confirmation*" and "*executing the request based on said instruction*".

MPEP 2143.03 indicates that "*To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.*"

However, the rejection has been advanced without any teachings from the references in regard to the above 5 elements from Claim 28.

Consequently, it has been shown that the cited references do not teach what they are purported to teach and there is a failure to teach all aspects of the cited claim, while the references themselves cannot be properly combined.

Therefore, in view of the lack of support for the rejection, Applicant respectfully requests that the rejection of Claim 28 be withdrawn.

O.   Dependent Claims 5, 7-9, 19, and 21-23.

Claims 5, 7-9, 19, and 21-23 depend from independent Claims 1 and 17, whose

novelty over the cited reference has been discussed above.

As no teachings have been advanced, in regard to each of these dependent claims, which overcome the shortcomings of the rejection of their respective parent claims, each of these claims should be considered *a fortiori* allowable for at least the reason of the demonstrated allowability of their parent claims.

Therefore, Applicant respectfully requests that the rejection of Claims 5, 7-9, 19, and 21-23 be withdrawn.

CONCLUSION

Accordingly, the Applicant respectfully requests a determination of the issues presented herein, as well as a determination that Claims 1-10 and 17-28, are allowable.

Dated: 08/30/2010

Respectfully submitted,

/Rodger H. Rast/

John P. O'Banion, Reg. No. 33,201
Rodger H. Rast, Reg. No. 45,853
O'BANION & RITCHEY LLP
400 Capitol Mall, Suite 1550
Sacramento, CA 95814
(916) 498-1010

Appendix:

Pending Claims Appendix

Evidence Appendix

Related Proceedings Appendix

CLAIMS APPENDIX

1.   A method of tracking and synchronizing content across multiple devices, including a plurality of client devices and a server, comprising:

receiving new content for which no record exists, associated with a request submitted by a user;

reviewing said new content in response to the request and comparing with existing content for which a record exists and which is a duplicate or related to said new content;

performing the request and creating a new content record corresponding to said new content;

automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content which is available on the multiple devices;

wherein new content without an existing record is compared with existing content having a corresponding record, and if the new content is at least similar to existing content, then the records from the existing content are utilized in completing the fields of the new content; and

updating the records of duplicate or related content with information about the new content associated with said new content record to synchronize all the content records.

2.   A method as recited in claim 1, further comprising:

receiving a copy, delete, or print request from a user corresponding to specific content within the existing content wherein duplicates of said specific content, or related to said specific content, are retained on a device across multiple devices configured for communicating with one another over a network;

reviewing a record associated with the specific content in response to the request and analyzing the associated record to determine what duplicate or related content is available across the multiple devices;

transmitting a confirmation for the request in response to detecting the presence of any duplicate or related content; and

performing the request in response to receiving the request and instructions from the user in responding to said confirmation.

3.   A method as recited in claim 1, further comprising:

receiving a copy, delete, or print request from a user corresponding to said specific content within the existing content wherein duplicates of said specific content, or related to said specific content, are retained on a device across multiple devices configured for communicating with one another over a network;

reviewing a record associated with the specific content in response to the request and analyzing the associated record to determine what duplicate or related content is available across the multiple devices; and

determining utilization of any duplicate or related content based on a pre-established preference and the type of request which was received.

4.   A method as recited in claim 1, further comprising:

transmitting a confirmation for the request in response to detecting the presence of any duplicate or related content; and

wherein said confirmation presents the user with options as to which content to use, based on resolution of the content, for performing said request based on the presence of duplicate content.

5.   A method as recited in claim 1, wherein said new content includes one from the group of content items consisting of a photograph, music, a document, and a video.

6.   A method as recited in claim 1, wherein each content record includes a field for indicating other content related to content associated with the content record.

7.   A method as recited in claim 3, further comprising storing the pre-established preference in a storage device.

8.   A method as recited in claim 1, further comprising storing the new content record in a storage device.

9.   A method as recited in claim 2, wherein the confirmation is sought from the user for authorization for executing the request.

10.   A system for tracking and synchronizing content across multiple devices, including a plurality of client devices and a server, comprising:
        means for receiving a request from a user to create a new content record for new content received from the user;
        means for reviewing specific content within the new content of said new record in response to the request and comparing with duplicate or related content which is available across said multiple devices;
        means for performing the request and creating a record corresponding to said new content;
        means for automatically completing fields within said new content record in response to information contained in the specific content as well as information about said duplicate or related content which is available across the multiple devices;

wherein new content without an existing record is compared with existing content having a corresponding record, and if the new content is at least similar to existing content, then the records from the existing content are utilized in completing the fields of the new content; and

means for updating the records of duplicate or related content with information about the specific content associated with said new content record to synchronize the content records.

17.   A system for tracking and synchronizing content across multiple devices, including a plurality of client devices and a server, comprising:

an interface module configured for receiving a request submitted by a user specifying new content submitted by the user;

said interface module is configured for communicating over a network between one or more client devices and a server device;

wherein existing content, which is a duplicate and/or related, to said new content are retained across multiple devices configured for communicating over the network;

a review module configured for reviewing said new content and creating a new content record corresponding to said new content;

wherein a content record is associated with existing content, with said content record having information fields for accessing the duplicate content and/or related content;

a storage module configured for storing a preference wherein the preference corresponds to types of request and includes at least one criteria for performing the request;

said review module configured for analyzing existing content and a corresponding content record associated with the request, to find duplicate or related content that is available across the system containing the multiple devices;

said review module automatically completing fields within said new content record based on information contained in existing content as well as information about the presence of duplicate or related content which is available across the multiple devices;

said review module also automatically updates content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content;

said review module configured for selectively transmitting a confirmation for the request based on the analysis and the presence of duplicate or related content and the preference for determining whether the request is performed; and

said review module executes the request based on receiving the request and instruction from the user in responding to said confirmation.

18.   A system as recited in claim 17, further comprising a capture module configured to identify content in response to comparing an image of the new content with images contained in the existing content.

19.   A system as recited in claim 17, wherein content includes one from the group of content items consisting of a photograph, music, a document, and a video.

20. (previously presented): A system as recited in claim 17, wherein the interface module is configured to provide a confirmation based on the criteria for performing the request as contained in said preference, said confirmation configured for confirming that the user desires to proceed with performing the request.

21.   A system as recited in claim 17, wherein the storage module is configured to store the new content record.

22.   A system as recited in claim 17, wherein the storage module is configured to store the new content.

23.   A system as recited in claim 17, wherein the request includes one from the group of request types consisting of saving, deleting, modifying, and printing of content.

24.   A computer-readable medium having computer executable instructions for performing a tracking and synchronization method across multiple devices, including a plurality of client devices and a server, comprising:

receiving a request from a user corresponding to new content submitted by the user;

wherein existing content, which is a duplicate or related, to said new content, are retained across multiple devices configured for communicating with one another over a network;

creating a new content record for said new content submitted by the user;

wherein a content record is associated with existing content, with said content record having information fields for accessing the duplicate content and/or related content;

reviewing existing content records in response to the request and analyzing the associated record to determine what duplicate or related content is available across the multiple devices;

automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices;

automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content;

selectively transmitting a confirmation for the request based on said reviewing and the presence of any duplicate or related content;

performing the request based on receiving the request and instruction from the user in responding to said confirmation.

25.   A system for synchronizing and tracking content across multiple devices, including a plurality of client devices and a server, comprising:

a server configured for communication over a network;

a client device configured for communication over the network with said server;

an electronic processor in said client device, said server, or in both said client device and said server; and

programming executable on said electronic processor for,

receiving a request from a user with new content submitted by the user,

communicating over the network between said client device and said server device and at least one other client device connected to the network,

said new content along with existing duplicate content, and/or related content are retained across multiple client devices configured for communicating over the network,

creating a new content record for said new content submitted by the user,

wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content,

analyzing the new content to find duplicate or related content that is available on devices connected to the network,

automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices,

automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content,

transmitting a confirmation for the request when duplicate or related content is available,

receiving instruction from the user in responding to said confirmation,

executing the request based on instruction.

26.   A system for synchronizing and tracking content across multiple devices, including a plurality of client devices and a server, comprising:

a server configured for communication over a network;

a client device configured for communication over the network with said server;

an electronic processor in said client device, said server, or in both said client device and said server; and

programming executable on said electronic processor for,

storing a preference setting for one or more types of requests, said preference including at least one criteria for performing the request;

receiving a request from a user with new content submitted by the user,

communicating over the network between said client device and said server and at least one other client device connected to the network,

said new content along with existing duplicate content, and/or related content are retained across multiple client devices configured for communicating over the network,

creating a new content record for said new content submitted by the user,

wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content,

analyzing the new content to find duplicate or related content that is available on devices connected to the network,

automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices,

automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content,

transmitting a confirmation for the request based on the preference setting when duplicate or related content is available,

receiving instruction from the preference setting, and/or from the user in responding to said confirmation, as to how to execute said request,

executing the request in response to said instruction.

27.   An apparatus for synchronizing and tracking content across multiple devices, including a plurality of client devices and a server, comprising:

a client device configured for communication over the network with a server and/or at least one other client device;

an electronic processor in said client device; and

programming executable on said electronic processor for,

receiving a request from a user with new content submitted by the user,

communicating over the network between said client device and a server and/or at least one other client device connected to the network,

said new content along with existing duplicate content, and/or related content are retained across the server and/or multiple client devices configured for communicating over the network,

creating a new content record for said new content submitted by the user,

       wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content,

       analyzing an image in the new content to find images of duplicate or related content in the existing content that is available on servers and/or client devices connected to the network,

       automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content,

       transmitting a confirmation for the request when duplicate or related content is available,

       receiving instruction from the user in responding to said confirmation,

       executing the request based on said instruction.

    28.   An apparatus for synchronizing and tracking content across multiple devices, including a plurality of client devices and a server, comprising:

a server configured for communication over a network with client devices;

an electronic processor in said server; and

programming executable on said electronic processor for,

       receiving a request from a user with new content submitted by the user,

       communicating over the network between said server and at least one said client device connected to the network,

       said new content along with existing duplicate content, and/or related content are retained across said server and at least one said client device configured for communicating over the network,

       creating a new content record for said new content submitted by the user,

wherein a content record is associated with existing content, with said content record having information fields for accessing duplicate content and/or related content,

analyzing the new content to find duplicate or related content that is retained on client devices connected to the network,

automatically completing fields within said new content record based on information contained in the new content as well as information about the presence of duplicate or related content in existing content available across the multiple devices,

automatically updating content record fields associated with existing content in response to receipt of new content which is found to be a duplicate or related to the existing content,

transmitting a confirmation for the request when duplicate or related content is available,

receiving instruction from the user in responding to said confirmation,

executing the request based on said instruction.

EVIDENCE APPENDIX

Not Applicable. No additional evidence is relied upon in the present Appeal.

RELATED PROCEEDINGS APPENDIX

Not Applicable. No related proceedings are pending and no decisions have been rendered by a court or the Board of Appeals relating to the present Appeal.